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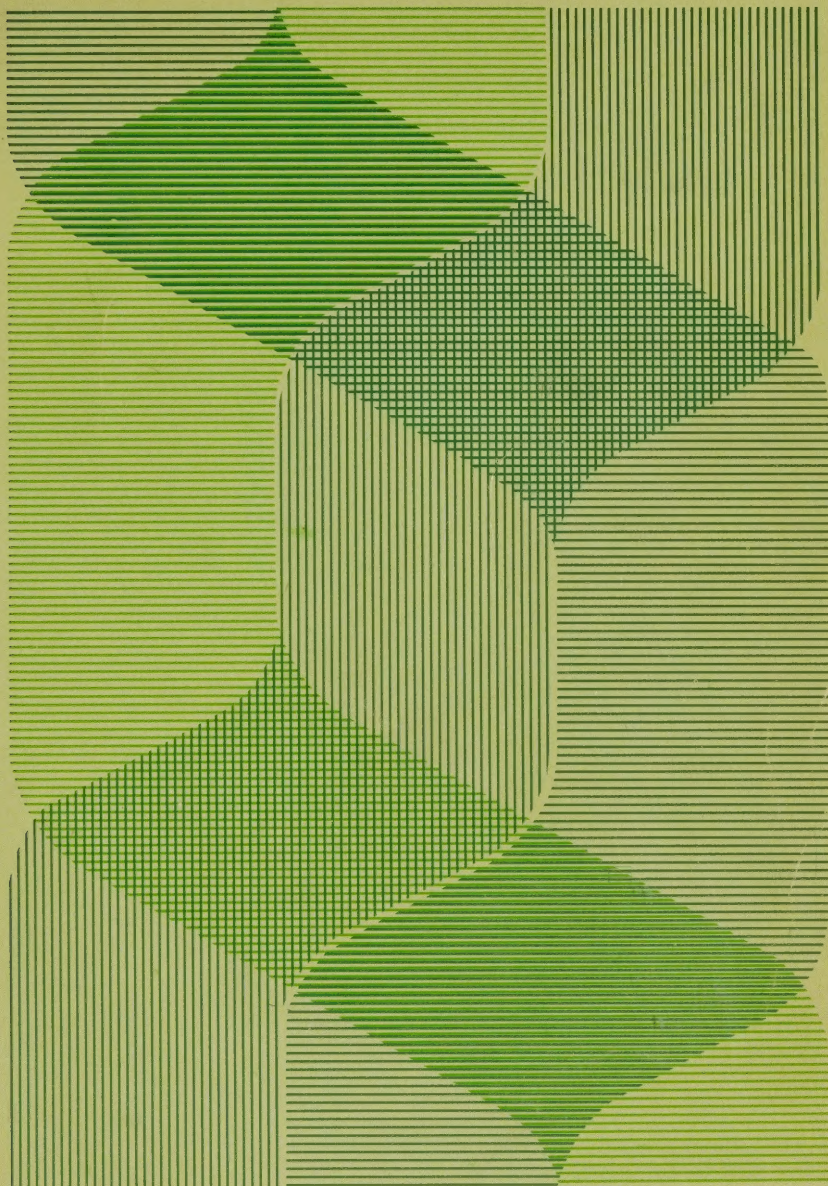
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# Life Together:

## A Report on Human Rights in Ontario



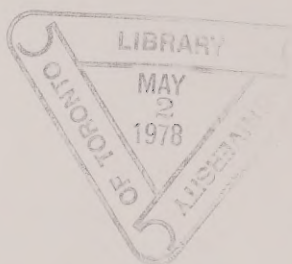


# Life Together

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## A Report on Human Rights in Ontario



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# Preface

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This Report, which contains over one hundred recommendations and a detailed proposal for a new *Ontario Human Rights Code*, is the result of a major effort by the Ontario Human Rights Commission to address the urgent needs of the changing human rights situation in Ontario. The preparation of the Report has been given highest priority by the Commission since its reconstitution as a public body of private citizens in 1975. It appears with the unanimous support of the Commissioners.

The Report reflects not only the experience of the Commission, and the results of extensive research, but also an emerging province-wide consensus. This consensus was expressed in the seventeen well attended public meetings which the Commission held and in the more than 300 written briefs which it received.

Thorough as it is, the Report does not attempt to encompass the entire range of human rights concerns in the province. Rather, it focuses on those areas which can reasonably be expected to fall within the ambit of the *Ontario Human Rights Code*.

The far-reaching proposals contained in the Report constitute the first full scale revision of the *Ontario Human Rights Code* to be proposed since the *Code* was first enacted in 1962. The intervening fifteen years have brought many significant changes to the life of our province. It is now essential that the human rights of the people of this province be redefined and extended in the light of these changes in order that life together in Ontario may continue to be marked by an atmosphere of mutual understanding and by respect for the dignity of every person.

While all members of the Commission are responsible for the substance of the Report and have contributed extensively to its preparation, one Commissioner, Dr. Bruce McLeod, has made a special contribution to this work as Chairman of the Code Review Committee. This Commission is greatly indebted to him for the thoughtful attention he has devoted to this project with the assistance of Mr. James Fulton, the Coordinator of the Code Review, and Mrs. Rosemary O'Neill, the Secretary of the Code Review Committee. Dr. McLeod was responsible for the sensitive and difficult task of planning and arranging the public hearings, receiving and responding to the briefs and inquiries, collecting and analysing research materials, and preparing the initial draft of the Report.

The Commissioners would like to acknowledge, as well, the particular contribution made to the preparation of this Report by Mr. George Brown, Executive Director of the Ontario Human Rights Commission; by Mr. Thomas McMillan, the Commission's Executive Officer; and by Professor Ian Hunter the Commission's legal counsel. The Commissioners are grateful, also, to the members of the staff of the Ontario Human Rights Commission for their advice and for the

assistance which they provided in so many ways. Finally, may I express the Commission's thanks to the hundreds of people across the province who contributed their thought and concern to this important enterprise through the briefs they submitted and by their participation in the public hearings.

The Legislature of Ontario has a proud record in protecting human rights. The *Ontario Human Rights Code* of 1962 was the first such code in Canada and this province continues to be viewed in many parts of the world as a leader in the field of human rights. Over the years, the work of the Ontario Human Rights Commission has made a signal contribution to the cause of human rights both in this country and abroad.

Respect for human rights is an old tradition in Ontario, but it is a tradition that may be more fragile than we think. Public respect for human rights is not something that can be taken for granted in any part of the world, not even in Canada. A climate of understanding and mutual respect will not grow of its own initiative. It requires careful and constant nurturing and encouragement through public education and legislative action.

It is vital that the province give a high priority to human rights and that the province review at regular intervals its commitment to this area of its life to ensure that the needs are being met. This is particularly true in the current economic climate when the need for financial restraint is often matched by increasing incidents of discrimination. These incidents lead, in turn, to heavier demands on the Human Rights Commission.

I hope that this Report will receive both wide public discussion and careful legislative consideration, and that its recommendations will be acted upon with dispatch.

*T. H. B. Symons*

Thomas H.B. Symons  
*Chairman*



# Members of the Ontario Human Rights Commission

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**Thomas H.B. Symons,**  
*Chairman*

**Rosalie Abella**

**Bromley Armstrong**

**Lita-Rose Betcherman**

**Jean-Marie Bordeleau**

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*Executive Officer*

**James M. Fulton,**  
*Co-ordinator,  
Review of the Ontario  
Human Rights Code*

# The Need for a Revision of the Ontario Human Rights Code Now

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In 1962, Ontario pioneered human rights legislation in Canada by consolidating all anti-discrimination legislation passed by the Ontario Legislature since 1944 and enacting the *Ontario Human Rights Code*. At that time, the Minister of Labour said in the debate on the first reading of the Bill, "The Legislation now before us is, I believe, a major step forward in assuring everyone in this Province an equal opportunity . . . As time goes on, and as new needs become apparent, our Ontario Human Rights Code will continue to keep pace with the requirements of the people of our Province".<sup>1</sup>

Fifteen years have gone by; new needs are apparent. And it is time for another step.

Despite a number of specific amendments since it was enacted, the *Ontario Human Rights Code* has never undergone a thorough review, much less a complete revision. Consequently, the legislation is now riddled with anomalies and hamstrung by limitations which render it increasingly unable to address the burgeoning human rights needs of this province.

Marital status, for example, is at present a prohibited ground for discrimination in employment, but not in housing. The result is that single or divorced people are often being turned away from available accommodation in Ontario, and the Human Rights Commission has no authority to protect them from such discrimination. Similarly, families with children are frequently discriminated against by landlords. When no other accommodation is available for rent in the community concerned, such discrimination can cause severe hardship.

The Native peoples of this province, who have for years suffered vicious institutionalized discrimination as a group, cannot, under the existing *Ontario Human Rights Code*, initiate class action complaints to protect themselves against obvious discrimination in employment. Although a phrase allowing for class actions was included in the housing and public services sections of the *Ontario Human Rights Code* in 1962, it was omitted from the section dealing with employment.

The physically disabled are no longer content to stay in institutions or in somebody's back bedroom. On their emergence they are finding that their communities have been designed with somebody else in mind. Steps and curbs and telephone booths prevent them from participating in the common life; and prejudice regularly prevents them from being considered for jobs within their competence.

People who have paid their debt to society by serving a prison term often cannot reach even the job interview stage because of loaded questions on application forms that effectively rule them out. It is no

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<sup>1</sup>

*Province of Ontario Legislative Debates*, 14 December, 1961, p. 413.

wonder that many of them return to prison. In Ontario's prisons, eight out of ten inmates are repeat offenders.<sup>2</sup>

Homosexuals have never received the same protection from discrimination that is extended to their fellow citizens under the sex provisions of the *Ontario Human Rights Code*. As a result, they are subject to blackmail, to arbitrary dismissal from their jobs, and to summary eviction.

The nationality provisions of the legislation have been abused by some employers who have used the *Code* in a manner which frequently denies employment opportunities to Canadian citizens. There is no provision in the *Code* to counter this practice by recognizing nationality as a ground that might be a bona fide occupational qualification or requirement in some circumstances.

Young people old enough to vote and to perform military services for their country are often refused employment or accommodation on the ground of age. But the existing *Code* does not protect them against such treatment. It protects from discrimination on the ground of age only those who are between forty and sixty-five. For the same reason, little can be done under the *Code* as it now stands to protect the rights of the growing number of people who at the age of sixty-five wish to continue working and are capable of doing so.

The developing multicultural nature of the province enriches our communities. But it also increases the potential for misunderstandings, insensitivity and open intolerance. The Commission lacks a strong legislative mandate to move preventatively into areas of inter-group tension before crises develop and without waiting to be called.

In the fiscal year 1975-1976, there were nearly 500 complaints concerning human rights to which the Commission attempted to respond but for which the *Code* provided no legal mandate to allow for effective investigation and conciliation. These complaints fell under some thirty-six broad categories and included, for example, single and divorced people being denied housing, physically disabled people being denied jobs for which they were well qualified, young people and senior citizens being denied employment, and homosexuals being fired arbitrarily because of their sexual orientation. Yet these 500 complaints represent only a small proportion of the total number of people who have reason to believe they are victims of discrimination in this province. There is evidence that many more people do not bring their complaints to the Commission because they know that the *Code's* current terms of reference do not cover their situation.

But there is another reason why a review of the state of human rights in Ontario is necessary now. Legislation can only be as effective as the means provided to administer and enforce it. Ever since the Ontario Human Rights Commission was established in 1962, the budget allocated to it by the province has been inadequate for the Commission to discharge the responsibilities assigned to it by the Legislature. In recent years this gap has steadily widened, so that there is now a serious discrepancy between the Commission's legal responsibilities and the limited resources available to it to meet these

responsibilities. The province currently allocates more money to promote the sale of lottery tickets than to protect the human rights of the people of Ontario.

In 1976-1977, the Commission's professional staff handled 16,908 inquiries and referrals, 1,445 formal complaints (with investigation and conciliation proceedings), and 1,710 cases involving the prevention and defusion of community tensions. At the end of the fiscal year, 423 cases were backlogged, largely because of the shortage of personnel and resources needed to deal with these heavy demands.

It is essential that individual complaints be investigated thoroughly. Moreover, in many instances the complexity of the issues involved in these complaints demands follow-up action in a variety of ways that require extensive expenditures of staff time. Thus, the pressures posed by the large and increasing number of formal complaints received by the Commission prevent its small group of professional officers from giving attention to public education designed to change ingrained attitudes and old patterns of discrimination. Indeed, in this situation only one human rights officer could be spared to concentrate on education and the building of public awareness of human rights.

In response to vigorous and protracted representations by the Commissioners, six human rights officers were added to the staff in the spring of 1976. However, the number of formal complaints of discrimination under the *Code* has been growing consistently each year at the rate of about twenty per cent, in addition to the tremendous increase in the number of community related cases of a racial or ethnic nature.

The growth in professional staff has not even kept pace with the increase in formal complaints received by the Commission, let alone provided the additional human rights officers who are needed to cope with the many other important aspects of the Commission's work.

The Commission appreciates the climate of economic restraint under which the government of Ontario and its agencies must currently operate. But in view of the obvious and growing needs of this province in the field of human rights, it is unconscionable that the Commission's urgent requests for additional resources for the 1977-1978 fiscal year were almost totally rejected.

In submitting its estimates for 1977-1978, the Commission made an initial request for nineteen more professional staff. The request was based on a careful and realistic assessment of the state of human rights in Ontario and of the Commission's public responsibilities under the *Code*. Nonetheless, this number was first cut to nine and, subsequently, reduced to zero.

Similarly, the Commission's request for funds to meet the expanding needs of human rights work in the area of public education was also cut to zero. The consequences of this denial of the funds required to make possible a realistic program of public education in human rights are regrettable and sometimes even absurd. For example, the Commission's award-winning film clip on the subject of discrimination, "Forest Fable", is seldom shown in Ontario although, ironically, it is being used extensively in other provinces which have recognized its merit and provided funds from their own budgets for this purpose.

The Commission requested an increase of \$489,000 in its direct operating budget for 1977-1978 to enable it to meet the increasing demands being placed upon it. However, the total increase allocated to



it for its operating expenses was only \$3,900. Taking into account today's inflation rate, the Commission is operating on less than it was a year ago.

The best legislation in the world is rendered useless if resources are not provided to put it into action. The streets erupt daily with incidents to remind us that concern for human rights ought to be high on the province's list of priorities. Political leaders have spoken out strongly against discrimination and in favour of human rights. But words alone carry no power. They can with justice be labelled "window dressing" which produces frustration and resentment among the victims of discrimination while bringing comfort to the forces that would divide our communities.

The Ontario Human Rights Commission has undertaken this full-scale review of the state of human rights in the province in order to provide both the legislators and the public with a better understanding of the extent and nature of human rights problems in Ontario and the urgent need for stronger legislation and for increased resources to address these problems, now and for years to come.

This report, with the proposals it makes for a complete revision of the *Ontario Human Rights Code*, has not been prepared in a corner by people who presumed to know what was best for others. The Commission thought it would best serve the Legislature by inviting the people of the province to participate fully in every stage of the review.

Accordingly, in March 1976, the Commission placed advertisements in every daily and weekly newspaper throughout the province announcing public hearings and inviting the submission of written briefs. This advertisement eventually appeared in some twenty-six languages. There was a strong response to this public invitation. In addition to many letters, more than 300 written briefs were received, ranging in length from one paragraph to sixty-seven pages. As can be seen from the appended list,<sup>3</sup> they came both from individuals and from organizations, and represent a broad spectrum of Ontario society. The information and suggestions contained in these briefs have been tremendously helpful in preparing this report.

There was also an extensive response to the seventeen public hearings that were arranged throughout the province by the Commission from May to September of 1976. In Kitchener, for example, more than 250 people came out on a hot summer night and remained for four hours discussing human rights. The participants did not leave after making their statements, but stayed to express their common concern. Meetings were also held in Windsor, Hamilton, London, Peterborough, Kingston, Ottawa, Sudbury, Timmins, Toronto, Sault Ste. Marie, Thunder Bay and Kenora. Originally three public hearings were planned for Toronto. So many people wished to make presentations, however, that two extra meetings had to be arranged. Some members of the Legislature attended meetings in their areas and participated in the discussions.

The public hearings were valuable events in themselves. What amounted to a series of "town meetings" on human rights took place across the province. Commissioners and staff were there mainly to facilitate discussion, and to listen. People had a sense of sharing in the design of legislation that would affect the life of their communities. In addition, the extensive coverage that the news media in every community gave to the public hearings helped foster an awareness of the work of the Commission and of the extent and nature of human rights problems.

The proposed revision of the *Ontario Human Rights Code* has been enriched by this public participation. For instance, a number of well-intentioned Private Members' Bills have recently suggested adding the physically disabled to the list of those protected from discrimination by the *Code*. But disabled people, who were represented in person and

articulately at all of the seventeen hearings, made it clear that the terminology of the proposed Bills, which was borrowed from the human rights legislation of another province, was offensive to many of them and ought, therefore, to be avoided in any new legislation in Ontario. The language referring to the disabled in the proposed revision of the Ontario *Code* has been framed with their help.

Research was undertaken on behalf of the Commission by Professor Ian Hunter of the University of Western Ontario Law School. Professor Hunter prepared valuable background studies on the development of human rights legislation in Canada, on comparable legislation in other Canadian provinces, in Britain, Australia, and the United States, and on the legal implications of proposed changes. Professor Walter Tarnopolsky, of the Osgoode Hall Law School, prepared a paper on "Nationality". The Commission's own Law Enforcement Liaison Committee, chaired by Mr. Bromley Armstrong, has provided helpful data and suggestions arising out of its work and experience. In addition, the knowledge and experience of the Commissioners were invaluable in the preparation of this report.

The eight members of the Ontario Human Rights Commission have discussed the proposals for this revision of the *Code* and other related recommendations contained in the report with care and at length, and the report comes to the Legislature with their unanimous support.

Approximately \$100,000 were made available by the province to finance this review of the state of human rights in Ontario. While final confirmation will not be available for some months until all accounts are closed, the task has been completed under budget.

Respect for human rights is an old tradition in Ontario, but it is a tradition that may be more fragile and vulnerable than we sometimes realize. Public respect for human rights is not something that can be taken for granted in any part of the world, not even in Canada. A "climate of understanding and mutual respect" will not grow of its own initiative. It requires careful and constant nurturing and encouragement through public education and legislative action.

Recent immigration, for instance, is not the cause of racial intolerance in Canada. In part it is the occasion for the unveiling of attitudes that have always existed here. Thomas D'Arcy McGee called long ago for "that catholicity of spirit which embraces all creeds and all races so that we might be enriched by known and unknown resources and become a great new northern nation".<sup>4</sup> But succeeding generations of new Canadians have not always found that spirit flourishing. What they have found is a country where the right of individuals to think and to act as they please has been protected down the years, often to the detriment of the rights of persons who might be hurt by the thought and actions of others.

It was not until 1793 that an Act relating to slavery in Upper Canada forbade the further introduction of slaves, and provided for the release of child slaves when they reached the age of 25.<sup>5</sup> But the freedom of people to own slaves in the meantime in this province was not affected.

Canadian common law tradition has, by and large, protected the right of businessmen to operate as they please and to serve whom they please. In 1919, a black man was refused a seat in the orchestra of a Montreal theatre because the manager's policy was to confine non-whites to the balcony. An initial award of ten dollars damages to the plaintiff was overturned by the Court of King's Bench which held that the manager's policy offended neither morality nor public order.<sup>6</sup> In 1924, the action of an Ontario restaurant owner who refused to serve some patrons solely because of their race and colour was similarly upheld by the court.<sup>7</sup> As recently as 1940, the Supreme Court of Canada declared, in response to a black person who was refused

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Thomas D'Arcy McGee, *Address before the Irish Protestant Benevolent Society of Quebec*, 10 May, 1862.

5

*Statutes of Upper Canada 1793*, c. 7.

6

*Loew's Montreal Theatres Ltd. v. Reynolds*, (1919) 30 Que. C.B.R. 459; at 461 Lamothe C.J. stated "... chaque propriétaire est maître chez lui; il peut, à son gré, établir toutes règles non contraires aux bonnes moeurs et à l'ordre public."

7

*Franklin v. Evans*, (1924) 55 Ontario Law Review 349.



service in a tavern, that "any merchant is free to deal as he may choose with any individual member of the public."<sup>8</sup>

"Thus by 1940", comments Professor Hunter, "it was clear that Canadian courts regarded racial discrimination as neither immoral or illegal . . . The judiciary had not lacked opportunities to advance equality but had preferred to advance commerce; judgements had adumbrated a code of mercantile privilege rather than a code of human rights."<sup>9</sup>

This individualistic approach to community life may have suited the laissez-faire economics and elbows-up pioneer spirit which helped to develop this country in the nineteenth century. It rings familiarly back through the new personalism of the Western Renaissance, and even to Aristotle ("Justice is the virtue whereby each and all have what belongs to them in accordance with the law")<sup>10</sup> and to Plato ("To mind one's own business and not be meddlesome is justice").<sup>11</sup>

As recently as 1974, a noted civil libertarian has argued that

*the greatest human right of all is the right to be let alone: to be one's own man. If a stranger were to drop into our planet . . . and read the rules the Human Rights Commission (of Saskatchewan) has published, I am sure he would believe we are a wanton and depraved lot to require that so many strictures be placed by a public authority upon our behaviour, that so many prohibitions be imposed upon our speech, and that such a wide-ranging array of penalties should be visited upon us for deviating from the rules.*<sup>12</sup>

From the beginning, however, there have been many in this country who have found the experience of being "let alone" less a right than a burden. They have been let alone. And they have suffered, without public support, at the whim of those who are strong, whose place is assured, and who can afford to speak easily of the benefits of individual freedom.

There is a long line of past and present victims in our midst who have had a different experience in this province than the one envisaged in the Preamble to the *Ontario Human Rights Code* which refers to the "inherent dignity and the equal and inalienable rights of all members of the human family."

From the beginnings of our history, the rights of the Native peoples have been pushed aside in the name of development.

Black people have had to fight against segregated schools and housing in Toronto and to struggle for equal opportunities in employment. They are still sometimes stopped on the streets by

<sup>8</sup>  
(1940) S.C.R. 139.

<sup>9</sup>  
Professor Ian A. Hunter, *Human Rights Legislation in Canada: Its Origin, Development and Interpretation*, Research Paper prepared for the Code Review Committee of the Ontario Human Rights Commission, August, 1976, p. 4.

<sup>10</sup>  
Aristotle, *Rhetoric*, I; 9, translated by L. Cooper (New York, 1932), p. 47.

<sup>11</sup>  
Plato, *Republic*, IV; 433, translated by A.D. Lindsay, (London, 1935) p. 120. (The marginal reference p. 433 is to the translation of H. Stephanus, 1578).

<sup>12</sup>  
Dr. Morris Schumiatcher, "Overkill in Human Rights", *Regina Leader Post*, December 3-5 inclusive, 1974.

policemen and asked for their passports simply because of their colour.

Canadians of Japanese ancestry remember the humiliation and the ostracism they lived through here during the Second World War.

Successive waves of immigrants in the 1940s and the 1950s, often referred to disparagingly as "D.P.s", recall the struggle for acceptance they had to face. Many immigrants today face a similar struggle.

Canadian Jews have not forgotten signs and customs that excluded them from beaches, hotels, restaurants and clubs in Ontario. They remember 17 August, 1933, when an anti-Semitic race riot of 10,000 people swinging sledge hammers, baseball bats and lead pipes raged for six hours at Christie Pits in Toronto.<sup>13</sup>

The province's 700,000 people of French-speaking ancestry still experience difficulty in finding adequate public services in their own language.

The East Indian community in Ontario, currently both frightened and angered by the racist abuse and physical assaults directed against many of their members, is not the first in this province to encounter the narrowness and ignorance rooted in Ontario's past. Prejudice and intolerance continue to grow in Ontario and to find expression in hate literature and in violence in our streets.

In 1945, however, a persistent, if less obtrusive, facet of Ontario's tradition began to assert itself. In *Re Drummond Wren*,<sup>14</sup> Mr. Justice J. Keiller MacKay, who later became Lieutenant-Governor of Ontario, dealt with a discriminatory covenant which would have prohibited the sale of a property to "Jews or persons of objectionable nationality". He stated, "if the sale of one piece of land can be so prohibited, the sale of other pieces of land can likewise be prohibited . . . In my opinion nothing can be more calculated to create or deepen divisions between existing religious or ethnic groups in this province."

In support of his decision, the judge appealed widely, and unusually, to the emerging world consensus, to the new United Nations Charter, to a resolution adopted by the World Trade Union Congress, to extrajudicial utterances of Justices Holmes and Cardozo, and to speeches by President Roosevelt, Prime Minister Churchill, and General DeGaulle. "My conclusion therefore is", he declared, "that the covenant is void because it is offensive to the public policy of this jurisdiction. This conclusion is reinforced, if reinforcement is necessary, by the wide official acceptance of international policies and declarations frowning on the type of discrimination which the covenant would seem to perpetuate."

Various forces were abroad which provided an encouraging context for the enunciation in Ontario of this new public policy. The United Nations would soon frame the Universal Declaration of Human Rights. Mass production techniques were focusing attention less on

13

Dr. Lita-Rose Betcherman, *The Swastika and the Maple Leaf: Fascist Movements in Canada in the Thirties*, (Toronto, 1975), p. 75.

14

*Re Drummond Wren* (1945) O.R. 778. In 1950, the 'Ontario Conveying Act' and 'Law of Property Act' were amended to forbid racially discriminatory covenants: Statutes of Ontario 1950, c. 11; now Revised Statutes of Ontario 1970, c. 85, s. 22.

colour or class, and more on ability to perform the job. Sociologists were explaining that inequalities between races or groups were not based on innate differences but resulted from years of unequal opportunities. Anthropologists were reminding the world that cultures were not better than, but only different from, each other. It began to be remembered that the Bible, which had long been an element in the culture of Ontario, stood for openness to strangers in the land: "When an alien settles with you in your land, you shall not oppress him. He shall be treated as a native born among you, and you shall love him as a man like yourself; for you have been aliens . . ." <sup>15</sup>

It was in such an atmosphere that human rights legislation began to take form in this province. In the vanguard was the *Ontario Racial Discrimination Act* of 1944, which was aimed at signs and notices which restricted the use of public facilities on the basis of race or creed. In 1951, Ontario, soon emulated by over provinces, enacted this country's first *Fair Employment Practices Act*, followed three years later by the *Fair Accommodation Practices Act*. These Acts marked the appearance of conciliation officers whose duties were to " . . . inquire into the complaint and endeavour to effect a settlement" <sup>16</sup>. In 1962, the *Ontario Human Rights Code* declared explicitly that " . . . it is public policy in Ontario that every person is free and equal in dignity and rights without regard to race, creed, colour, . . ." <sup>17</sup>

Such human rights legislation was no mere pious summary of the way people in Ontario acted. Rather, it reflected a recognition that there are tendencies in all of us that need to be acknowledged and restrained, by law if necessary, in order that a climate of understanding and mutual respect might prevail in this province.

It is no accident that the Preamble to the *Ontario Human Rights Code* reflects the language of the United Nations Declaration of Human Rights: human rights is a single issue the world over, however its particular application may vary from place to place. The growth of Ontario's sensitivity to human rights cannot take place in isolation from developments in other parts of Canada, and elsewhere in the world. The members of the Commission find that the current role of their Chairman in federal-provincial consultations on human rights, and, particularly, in facilitating procedures for Canada's long-delayed ratification of the United Nations Human Rights Covenants and Protocol, is of great assistance in setting Ontario's human rights problems in a proper national and international context. Active participation in these wider relationships is essential for the continued nourishment of what is, in Ontario, an old, but still fragile, tradition of concern for human rights.

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<sup>15</sup>

*Leviticus* 19:33.

<sup>16</sup>

*An Act to Promote Fair Employment Practises in Ontario*, Statutes of Ontario 1951, c. 24, s. 6.

<sup>17</sup>

*An Act to establish the Ontario Code of Human Rights and to provide for its administration*, Statutes of Ontario 1961-1962, c. 93, Preamble.

"Although freedom of the individual is a basic right, it is a limited one", Mr. James C. McRuer, former Chief Justice of the High Court of Ontario wrote recently. "In a well-ordered society there cannot be freedom in the abstract nor is it absolute."<sup>18</sup>

If there is not freedom for the community to develop in harmony and peace, then there cannot be secure freedom for the individual who lives within it. The individual's right to freedom must be exercised in the context of his or her responsibility to the community of which he or she is a part. The individual's quest for freedom cannot fully succeed if it is accompanied by an indifference or hostility to the freedoms of others. Freedom requires a reasonable balance between the rights of the individual and the rights of society.

In enunciating the "public policy of this jurisdiction", Mr. Justice Keiller Mackay, in his landmark decision of 1945, marked out a shared standard for the people of Ontario which anyone who chooses to live here must accept. The invoking of this standard is not an arbitrary imposition on an individual's right to be "let alone". It is a reasonable expectation, shared by the community, of anyone who would live in it. It is "public policy", and anyone who flouts it will soon find the collision point between his individual rights and the rights of society. Moreover, he will commit a grave injustice not only to the community but also to himself.

Thus, the right of the merchant "to deal as he may choose with any individual members of the public" is limited in the name of the right of the community to live in harmony. Individuals who choose to enter the public market-place through commerce or contract, or by offering to rent space to the public in their home, must respect legitimate community standards and expectations that cannot always await their agreement before demanding their compliance.

If an individual fails to respect these standards, something more has happened than infringement of a rule. The community has been affronted. "An act of discrimination does not give rise merely to a new private claim for compensation", wrote Professor Tarnopolsky in a 1969 decision, "it amounts to a public wrong."<sup>19</sup> It is a rip in the fabric that binds society together.

But human rights legislation is concerned less with punishment than with attempting to win the offender to the community consensus. Consequently, it is conciliatory in its thrust. Only when conciliation fails are Boards of Inquiry invoked which "may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to

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James C. McRuer, "Malignant Powers Defy the Law", *Globe and Mail*, 27 January, 1977, p. 10.

19

Professor Walter S. Tarnopolsky, *Amber V. Leder*, 1969, n. 47 at 9.



rectify any injury caused to any person or to make compensation therefor.”<sup>20</sup>

But if “public policy” modifies and reinterprets individual freedom in the light of the rights of the community, other basic freedoms need, similarly, to be set in context.

Freedom of speech, for instance, does not include the right to shout “Fire!” in a crowded theatre when there is no fire. The community, through its concerned citizens, organizations and legislators must decide whether it will tolerate taped telephone messages designed to incite hatred and prejudice.

Responsible leaders of the press and media will likewise have to consider the point at which description becomes encouragement or incitement, as in recent cases where racist slogans were not only reported but effectively given wider currency. News about the spread of racism can easily become a self-fulfilling prophecy which contributes to that which it purports to report objectively. A balance must be found between freedom of the press and the public’s right to know, on the one hand, and the community’s right to “a climate of understanding and mutual respect”, on the other.

Community consensus on human rights has advanced considerably in Ontario since the Toronto race riot of 1933, notwithstanding the alarming number of incidents of discrimination and racial intolerance that still occur.

For all its increase in violent racial incidents, Toronto is not, as is sometimes suggested, becoming another Detroit. That city, which is almost twice the size of Metropolitan Toronto, had 700 murders last year. In Toronto there were forty-eight. Few people will risk a walk at night in the centre of Detroit. That is not true in Toronto. Most of Detroit's black population is ghettoized. Toronto's black population, which has risen in the past fifteen years from 3,000 to over 100,000 lives and works in many parts of the city. Ontario's anti-discrimination laws, particularly since the enactment of the *Ontario Human Rights Code* in 1962, have been a major factor in averting in this province the racial conflict that has developed in many American cities.

Twenty-five years ago, eight out of ten Toronto residents were of Anglo-Saxon origin. Now four out of ten are. A stream of newcomers from many different cultural backgrounds has enriched the city's life and Toronto is a vastly more interesting place because of this development. Similar developments in many other communities have changed the whole complexion of this province. And this change has, in general, been accepted and welcomed by the people of Ontario, despite the abusive conduct of a few.

Violence that stains the common life does not necessarily represent it. The consensus may be more accurately reflected in, for instance, the hundreds of people from one Toronto religious congregation, Lawrence Park Community Church, who signed a statement affirming their belief in the value of the multicultural nature of the province and disassociating themselves from vicious acts and words directed against racial minorities.

Legislation on human rights can and should perform several functions in relation to community consensus. It should sum up and declare public policy, officially and unequivocally. It should, thereby, encourage people to take a personal stand against imagined or real pressures to "go along with" discriminatory practices. It should provide legal redress for individuals and minority groups whose rights are being over-ridden. It should create peaceful means for resolving inter-group tensions that might otherwise seek more explosive solutions. Human rights legislation should in itself be an expression of the decent values of its community and provide support by example and by law for better public understanding and respect for these values. It is too easy to say that morality cannot be legislated. Acts of discrimination can be prohibited. That in itself ultimately reduces the level of prejudice. As long as people are seen being treated unequally,

the tendency to see them as unequal will continue. When the occasion is removed, the tendency is not fed.<sup>21</sup>

Human rights legislation needs to be reviewed thoroughly and at regular intervals in order that it can serve these several functions well. It will need periodic revisions to ensure that it is effective in addressing new or changing problems. In succeeding sections of this report, the Ontario Human Rights Commission presents proposals that are designed to clarify and strengthen the human rights of the people of Ontario. These proposals arise from the conviction, based both on the Commission's own experience, and on the many briefs and public meetings held in connection with the public review, that the human rights of our provincial community now need redefinition and extension. There is a growing consensus to this effect across the province which cries out for legislation to declare it.

The specific proposals are outlined and commented upon in the following sections.

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E. Lester and L. Bindman, *Race and Law*, London, (1972), p. 85.

*The Ontario Human Rights Code* is a summary and declaration of public policy concerning the "climate of understanding and mutual respect" to be fostered at the community level of the province. More so than most legislation, it constitutes a legislative response to community consensus. As such, it should be in a form that is understandable not only to lawyers and human rights officers but also to the people of the province who are affected by it.

However, the *Code*, as it stands, is difficult to read. While the legal jargon of its wording may be intelligible to the professors of law and Supreme Court Justices who are called upon to interpret it from time to time, ordinary people, whose rights the document is supposed to summarize, often find the description of these rights hard to understand. Moreover, the piecemeal amendments to the *Code* since 1962 have sometimes further obscured its meaning or produced unfortunate anomalies.

In the proposed revisions to the *Code*, clauses have been shortened and clarified wherever possible. The Commission has sought to maintain the *Code's* legal precision, while making the document more readable and more intelligible to the layman. With this same objective in mind, there has also been a conscious effort to arrange the various sections of the *Code* in a logical sequence, with the help of explanatory sub-titles.

It may well be that a simplified prose version of the *Ontario Human Rights Code* should be produced, in addition to the legislative formulation. But in the meantime no effort should be spared to make the province's official enunciation of public policy on human rights as coherent and as readily understandable as possible.

Since the legislators of the province have set down in the *Ontario Human Rights Code* a public policy for Ontario's community life, this policy should be reflected and respected in other legislation.

At present, the *Code* does not take precedence over the provisions contained in other more specific Acts passed by the province. As a result, the Commission cannot deal with discriminatory practices in a number of areas covered by the *Code* because these practices are allowed, and in some instances are even prescribed, by other pieces of provincial legislation. Many of these statutes were enacted in years past when discrimination against groups like women was widely accepted. In today's society, however, such discrimination should not be tolerated. Consequently, there is much legislation on the books to be amended or updated. Similarly, new legislation in all areas should be consonant with the province's declared public policy in regard to human rights.

Discrimination rooted in earlier public attitudes and embodied in legislation may also be directed against men. Recently, for example, the Canadian Civil Liberties Association pressed a claim for welfare assistance on behalf of a single father. The welfare administrator handling the case had to refuse the claim even though, under identical circumstances, a single mother could obtain the assistance. Despite the fact that "it is public policy in Ontario that every person is . . . equal . . . in rights without regard to . . . sex"<sup>22</sup> welfare regulations make a number of such distinctions between the entitlements of men and women.

From time to time, there may be valid reasons for exceptions to be made in appropriate circumstances to the non-discriminatory policy expressed in the *Code*. Recognizing this fact, the proposed revision makes provision for the possibility of exemptions to be considered in every category. But it also provides that requests for such exemptions should be examined and decided upon one at a time, each on its own merits. Each exemption should meet the test of being a legitimate exception to the general policy. Unless such a practice is followed, it might some day become hard to distinguish the exceptions from the rule.

It is proposed in the revised *Code* not only that the Crown continue to be bound explicitly by the *Ontario Human Rights Code*, but also that "unless expressly stated otherwise, no Ontario statute or regulation shall be construed or applied so as to derogate from the principles of this Act".

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*The Ontario Human Rights Code*,  
Revised Statutes of Ontario, 1970, c.  
318, as amended, s. 14 c(b).



As a further safeguard against legislative provisions which are contrary to the standards and requirements contained in the *Ontario Human Rights Code*, the Commission recommends that all new and proposed Ontario laws and regulations be scrutinized on a regular basis to ensure that they do not contravene either the letter or the spirit of the *Code*.

The Commission also recommends that, in conjunction with the Statute Revision proposed for 1980, careful scrutiny be given to those existing official statutes which may contravene the principles embodied in the *Code* and that amendments be made to such statutes where appropriate.

## The Relationship of the Commission to the Legislature and to the Community

The *Ontario Human Rights Code* is a creation of the Legislature. It is also a declaration of public policy that emerges from the consensus of the community. The Ontario Human Rights Commission, appointed by the Lieutenant-Governor in Council to enforce and administer the *Code*, has therefore, a special relationship both to the Legislature and to the community. In order that the objectives of the *Code* can be properly served, it is essential that these relationships should be embodied in reporting and working arrangements that are appropriate and effective.

### a) Appointment and Composition of the Commission:

It is the aim of the *Ontario Human Rights Code* to help "to create at the community level a climate of understanding and mutual respect". It therefore makes sense for the Commission to be composed of members from the community who will help to relate its work to the community, rather than for it to be comprised of civil servants as was the case until recently. The Commissioners believe that an important reform was achieved when, in 1975, the Commission was reconstituted as a public Commission, the members of which are private citizens, not government employees. To confirm this significant change in the composition and status of the Commission, the proposed new *Code* specifies that those appointed to the Commission shall be "members of the public".

At present, Commissioners are appointed for a term of three years and no limit is placed upon the number of terms for which an individual can be re-appointed. This situation is unsatisfactory on a number of counts. A three year term does not provide sufficient time for a member to make a full contribution after spending the time necessary to learn the intricacies of the *Code* and its application. On the other hand, it is probably undesirable that, as is now the case, there should be no limit on the number of terms for which a person could be re-appointed to serve on the Commission.

It is therefore recommended in this report that Commissioners be appointed for a term of four years and that they be eligible for reappointment for one additional term of up to four years. These proposals are intended to provide for both continuity and change in the composition of the Commission, which should combine, at any one time, experienced members and fresh voices from the community.

As it now stands, the *Code* states that "the Commission shall be composed of three or more members".<sup>23</sup> Experience suggests that three is too small a number to cope with the large and increasingly complex workload of the Commission. Moreover, it is too small a number to represent adequately the cultural and geographical diversity of

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*Ibid*, s. 7(2).

Ontario. We therefore recommend in the proposed new *Code* that the Commission have a minimum of seven members.

Members of the Ontario Human Rights Commission are appointed by the Lieutenant-Governor acting on the advice of the Premier of the province. Because it is essential to the successful discharge of its duties that the Commission have the confidence of the Legislature and of the public, particular care must be taken in the selection of persons to serve upon it. To this end, we recommend that it become an established practice for the Premier to consult with the Leader of the Opposition before recommending the appointment of the Chairman of the Commission. It may also be appropriate for such consultations to include the leader of a third party, if it is represented in substantial numbers in the Legislature.

We also recommend that it become an established practice for the Chairman to be consulted before appointments are made to the Commission by the Lieutenant-Governor in Council.

Because of the nature of the Commission's public responsibilities, appointments to the Ontario Human Rights Commission ought not to be made on the basis of partisan politics. Just as consideration should be given to achieving some degree of geographical representation in the Commission's membership, so also should some appropriate balance be sought in the representation of the cultural diversity of the province so that a full range of views and experience can be drawn upon in the Commission's deliberations. However, persons should be appointed to the Commission not, primarily, because of their status as members of a cultural group or as representatives of a region, but because of their competence and their ability and willingness to work on behalf of human rights in Ontario.

It is an open question whether or not the Chairmanship of the Commission should be a full-time position. The present Chairman, although appointed and paid to work only three days a week, devotes substantially more time than that to his duties. At the very least, it will be necessary, when arrangements are made with the next Chairman, to recognize that the job cannot be confined to three days of work a week. At the same time, however, it will be important to continue to recognize the principle of independence in the working arrangements of future Chairmen.

The Chairman of the Ontario Human Rights Commission occupies an unusual position of trust as a public servant. He or she must neither be, nor appear to be, a civil servant susceptible to direction by the civil service hierarchy or the party holding office. The responsibility of the Chairman and Commissioners is to the legislation they have been asked to administer and to the public.

#### **b) The Need for Autonomy**

Both in written submissions and in discussions at the public hearings, many individuals and organizations pointed to the need for a Commission which is charged with the responsibility for protecting human rights to be free from undue influence or interference by any arm of the government, including the civil service hierarchy. Arguments were presented, in every part of the province and by many different groups, that the Commission must have an autonomy that is both real and publicly perceived to be real if it is to receive the confidence and trust of the people it was established to serve.

The present Commissioners can attest to the fact that the Ontario Human Rights Commission does now have a substantial degree of autonomy and that, in practice, it encounters little in the way of conscious or deliberate interference in the discharge of its public responsibilities. None the less, the fact of this autonomy is clearly not well understood by many sections of the public who hesitate to come forward with their concerns and complaints because of their current misperception of the Commission as a creature of the government.

In his admirable report on *The Black Presence in the Canadian Mosaic*, Dr. Wilson Head has commented frankly on this situation, noting that there are serious misgivings amongst many members of the black community about the reality of the Commission's freedom to do its job properly, without fear or favour, because of its status as "an official agency funded by the Government of Ontario".<sup>24</sup> Although Dr. Head's studies indicate a general and growing confidence in the Commission, he found that "the most serious criticism leveled against the Commission is its status as a government agency". Many of the respondents to his inquiries believed that the Commission, as an agent of the government, cannot be expected to do very much, that it cannot, for example, "attack the practices of another government agency", and that it is "good in theory but weakened by being a government agency." Dr. Head concluded that "only approximately one of every ten individuals who suffers some degree of discrimination actually complains to the official agency whose function it is to handle these types of complaints", largely because of these reservations and uncertainties about the autonomy of the Commission.

Similar concerns were expressed by the Ontario Advisory Council on Multiculturalism which urged in its brief that "ultimately and ideally the Human Rights Commission ought to be an independent instrument of government, answerable and accountable directly to the legislature and responsible for its own budget."<sup>25</sup> The Urban Alliance on Race Relations also concluded, in its brief, that "it seems to us that a Commission dedicated to the advancement of Human Rights in Ontario should have a high degree of independence, just as does the Ontario Ombudsman's office. It might, as do some Crown Corporations, report through a ministry, but it should be operationally independent."<sup>26</sup>

The need for greater autonomy for the Ontario Human Rights Commission was perhaps stated most forcefully, and bluntly, in the brief of the Canadian Civil Liberties Association:

*In our view, the Commission's structure is not now suited to this expanding jurisdiction over the operations of the Government. The members of the Commission's staff, from the Executive Director*

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Dr. Wilson A. Head, *The Black Presence in the Canadian Mosaic, A Study of Perception and the Practice of Discrimination Against Blacks in Metropolitan Toronto*, (Toronto, 1976), p. 74.

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Ontario Advisory Council on Multiculturalism, May, 1976.

26

Brief to the Code Review Committee of the Ontario Human Rights Commission from the Urban Alliance on Race Relations, June, 1976.

*down, are subject to the control of the civil service hierarchy within the Ministry of Labour. How, then, are these same staff members supposed to investigate discrimination complaints or initiate affirmative action programs involving their superiors in the Ontario civil service and, indeed in the Ministry of Labour, itself? This arrangement creates a great risk that the Commission's staff will neither feel nor appear sufficiently free to use their available powers and pressures against their employment superiors.*

*No doubt, the Government of Ontario appreciated the possibilities of such a predicament when it terminated the practice of recruiting the human rights commissioners from the civil service. While the non-civil service character of the present Commission membership represents an important development, we regret that it does not yet address sufficiently these potential predicaments.*

*Indeed, under the circumstances, the non-civil service Commission simply cannot have sufficient control over its civil service staff. Who is empowered to determine the techniques, restraints, and priorities which the staff must observe? Their civil service superiors in the Ministry of Labour or their non-civil service superiors in the Human Rights Commission? What happens in the event of a conflict between the two?*

*On the basis of all these considerations, we believe that the entire operation, Commissioners and staff, should be removed from any and all civil service direction and control. If it is deemed desirable for the Commission to continue reporting to the Legislature through a Cabinet Minister, this could be done on the basis of a direct relationship between the Commission and the appropriate Minister, without any civil service intermediaries.<sup>27</sup>*

Since its inception in 1962, the Ontario Human Rights Commission has operated as a branch of the Ministry of Labour. The placement of the Commission within that Ministry arose from historical circumstances that made such a placement natural at the time. Circumstances have changed, however, and the appropriateness of continuing to locate the Commission within the Ministry of Labour was questioned in many briefs, and defended in none. The point was put clearly by the Ontario Advisory Council on Multiculturalism:

*It is the opinion of the Ontario Advisory Council on Multiculturalism that the breadth and scope of the Code is such that the Ministry of Labour is no longer the appropriate ministry to which the Commission ought to be accountable. While employment situations may originally have given rise to most instances of discrimination, that is no longer true. Discrimination today stretches into every walk of life, economic, social and political.<sup>28</sup>*



The members of the Ontario Human Rights Commission concur with this view. While the Commission is grateful for the assistance it has received from within the Ministry over the past fifteen years, and particularly appreciates the co-operation and support given to it by the present Minister and Deputy Minister, it has concluded that it is no longer appropriate for it to continue as a branch or division of the Ministry of Labour.

For the same reasons, it is not appropriate for the Ontario Human Rights Commission to become a branch of any other ministry. Some distance needs to be placed between the Commission and officials in all the various arms of government against whom it may have to receive and investigate complaints. The Commission has a special role to play as the guardian of the human rights of the people of Ontario against abuses from any quarter, whether in the public or private sector. For this reason, it should not be tied to any particular department or ministry and it should be responsible for its own administrative life. Specific recommendations concerning staff and budget, that arise from this major recommendation about the Commission's autonomy, are contained in a subsequent section of this report.

### **c) Accessibility to the Public**

If it is to do its job, a human rights commission must be readily accessible to the public. For this reason, too, it is no longer desirable for the Ontario Human Rights Commission to be buried inside a particular ministry. In all its arrangements, the Commission should be easily identifiable in order that people can know of its existence and find their way to it with a minimum of trouble and delay. Present arrangements, which often require people first to know that the Commission is part of the Ministry of Labour before they can even look it up in the telephone book or find where its offices are located in their community, are no help.

Moreover, Commission offices in each community need to be located where they will be most useful. Too many of these offices have been placed, simply as a matter of course, in whatever space may be available in the accommodation used by the Ministry in that community. In Thunder Bay, for instance, the Commission office is now located, with other offices of the Ministry of Labour, in a government building that is convenient to the airport but miles away from the centre of that city's busy life. In Ottawa, the Commission's office is readily accessible only to those who can drive or afford a taxi. In Toronto, the Commission's offices are twelve storeys above the street, in the office building occupied by the Ministry of Labour. A storefront office operated by the Commission elsewhere in the city proved remarkably successful and demonstrated unmistakably the importance of making facilities and services more readily accessible to the public. Unfortunately, lack of funds recently forced the Commission to close it.

The concern felt by many people about the lack of ready access to Commission offices because of their location in whatever accommodation was made available by the Ministry was well expressed in a brief from Mr. Simon Chester of the Ontario Law Reform Commission:

*I lament the closing of Services for Working People, which always impressed me as an admirable attempt at decentralizing and demystifying the Commission's work . . . The symbolic distance*

*between College and Augusta and 400 University Avenue is great, even though the work may be the same, and the personnel identical. The body heat is lower, the informality gone, the contact with government, with bureaucracy, explicit, the possibilities for a tentative sounding out of a problem are lost, once one enters the sophisticated corporate office block skyscraper world of the Ministry of Labour.*<sup>29</sup>

Wherever the Commission's offices may be located, the efficiency of its "program delivery" is dictated in large part by the amount of clerical support available. This, in turn, is at present largely determined not by the Commission itself but by officials of the Ministry of Labour, who concluded that in Ottawa, for instance, not even one full-time secretary should be made available for human rights work in the whole region of eastern Ontario.

The people of the province need more direct access to their Human Rights Commission. In many different ways, it should be made possible for them to identify and to receive much more readily than is now the case the services which the Commission provides. The staff and offices of the Commission must be more conveniently located. The Commission's telephone numbers in each city should be listed under the Commission's own name, not under the name of another department of government, as is now the case in most communities. Everything else that can contribute to its public identity — letterhead and logo, for example — should be designed to project the Commission as an independent agency, which is receptive to the public and accessible to it.

#### **d) Reporting to the Legislature**

The *Ontario Human Rights Code* is an Act of the Ontario Legislature. The Ontario Human Rights Commission which was created by that Act, is responsible to the Legislature both for its own existence and for the enforcement and administration of the *Code*. In keeping with a fundamental principle of parliamentary democracy, the Commission, as an appointed body, must report to a Minister of the Crown who will report and answer for it in the Legislature to the elected representatives of the people. However, such a reporting relationship to a Minister need not involve making the Commission a branch of the department for which the Minister is responsible. It should be possible for the Commission to report directly to the Minister concerned, without becoming emmeshed in the administrative hierarchy and procedures of the ministry. Such an arrangement would be consonant with the principles of responsible parliamentary government and with the need of a Commission which is responsible for human rights to have adequate autonomy, identity and accessibility.

We therefore recommend that the Ontario Human Rights Commission be made responsible "to the Prime Minister of Ontario or such other member of the Executive Council to whom this Act (the *Ontario Human Rights Code*) is assigned by the Prime Minister of Ontario." This arrangement would have several advantages. The connection with

the Prime Minister's office would represent and declare the high priority given to human rights by the Legislature, and would provide reassurance to many concerned people throughout the province that the fundamental importance of their human rights is recognized. The association of the Human Rights Commission in this way with the office of the Prime Minister also gives recognition to the fact that the protection of human rights encompasses a wide range of concerns that are not logically confined to the focus of any one ministry.

In making this recommendation, the Commissioners appreciate that the Prime Minister might find it necessary or advisable to assign this responsibility to some other Minister and the recommendation therefore includes provision for such an alternative designation to be made. None the less, the Commissioners believe that there is an important symbolic advantage in specifying the initial responsibility of the Prime Minister for the protection and promotion of human rights in Ontario. In those instances in which the Prime Minister delegated this responsibility to another Minister, it would be clear that the Minister selected would be fulfilling by special assignment a responsibility of the Prime Minister himself. The Commission would thus remain at all times, in some special sense, the Premier's responsibility. Periodic changes of Ministers would thereby not adversely affect the Commission, which would be responsible for its own administration.

#### **e) The Submission of an Annual Report to the Legislature**

It is surprising that, in its fifteen years of public service to date, there has been no request or provision for the Ontario Human Rights Commission to make an annual report, other than a few perfunctory paragraphs included in the reports of the Ministry of Labour. The Commissioners recommend that an *Annual Report* should be prepared each year to be tabled in the Legislature and made available to the public. The *Report* should include a detailed statistical analysis of the Commission's activities, together with an assessment of the progress of human rights in the province during the year, as well as recommendations for any changes in the *Code* or in other provincial statutes, regulations, and related programs. Adequate financial provision for the preparation and distribution of the *Annual Report* should be included in the Commission's budget.

#### **f) A Standing Committee on Human Rights**

The Commission recommends that there be established a Standing Committee of the Legislature on Human Rights. This Committee, representative of all sides of the House, would provide a forum for regular and thorough discussion of human rights issues by members of the Legislature. It should review the work of the Ontario Human Rights Commission, and receive and examine its *Annual Report*. It could assist in developing appropriate legislative responses to recommendations initiated by the Commission, by other members of the Legislature, and by members of the public.

## 9 Taking the Initiative: Community Relations, Affirmative Action and Public Education

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In the summer of 1975, racial violence erupted in a large Ontario Housing Project. Commission officers investigated and identified several social and economic factors that had contributed to the tension. At the suggestion of the Commission and with its help, an inter-racial committee of residents was formed to address problems before they escalated into conflict. An inter-agency council was also formed, again at the suggestion of the Commission and with its help, to improve police-community relations, employment counselling, and recreational programs. During the summer of 1976, there was no recurrence of the kind of violence which had taken place at this housing project the preceding summer.

An increasing number of community relations problems are being brought to the Commission. These include, for example, problems relating to racial unrest and even violence in high schools, allegations of police brutality against Native people and members of other visible minority groups, the dissemination of hate literature, recorded telephone messages espousing racial prejudice, and racially-motivated vandalism at religious festivals and in places of worship. In 1975-1976, the number of such cases handled by the Commission increased by 108 per cent from the total in the previous year.

The Commission needs more staff and resources to cope with this sharp rise in the community relations workload. But what is also required is a clearer mandate within the legislation to enable the Commission not only to respond to complaints, but also to move preventatively into areas of community tension before these tensions become critical. In the current climate, it is no longer sufficient for the Commission to wait for the telephones to ring. It remains necessary to respond to crises as they occur; but it is even more important to have the capacity to defuse potentially explosive situations before they become crises.

To meet this need, we recommend that the mandate of the Ontario Human Rights Commission be expanded to give to it the authority and responsibility to "develop and conduct community, race and ethnic relations programs designed to reduce and prevent inter-group tensions and conflict."

In the present and foreseeable circumstances of our society, the Commission needs the authority and the resources to initiate action and to take such action not only in individual cases of discrimination, but also in situations where broader problems of discrimination and community tensions exist.

Four major duties are assigned to the Commission under the existing *Code*: to investigate individual complaints; to forward the principle that every person is free and equal in dignity and rights; to promote an understanding and acceptance of the *Code*; and to develop and conduct research and educational programs designed to eliminate



discriminatory practices.<sup>30</sup> Yet, until the addition of new staff in the Spring of 1976, the Commission was able to assign only two officers to conduct research, education, and preventative initiatives in the community, because of the heavy and increasing number of specific individual complaints under the *Code* with which its staff had to deal. As a result, the root causes of discrimination, which must be approached through education and affirmative action, remain largely untouched.

#### **a) Institutionalized and Historical Patterns of Discrimination**

When the *Ontario Human Rights Code* was first enacted in 1962, it was generally believed that discrimination took place through conscious overt actions directed against individuals. Therefore, the *Code* expressly prohibited such actions and to some degree deliberate and overt discrimination has declined since then.

But the Commission's experience in administering the *Code* during the last fifteen years demonstrates that the most pervasive discrimination today often results from unconscious and seemingly neutral practices which may, none the less, be as detrimental to human rights as the more overt and intentional kind of discrimination. These practices perpetuate the discriminatory effects of past discrimination, even when overt acts of discrimination have ceased. Unfortunately, the Commission does not have the power, under the present *Code* to deal effectively with such practices despite their clearly discriminatory consequences.

This is especially true in the area of employment. For example, personnel policies may require certain entry level qualifications which are unnecessarily restrictive or are not in practice very closely related to the job. Such unnecessarily restrictive personnel policies will often exclude or discourage for example, women, members of minority groups, or those who are physically disabled, even though by any reasonable standard they may be well qualified for the job. It is a fact that recruitment and advertisement practices frequently leave many members of minority groups with the impression that they will not receive fair and equal consideration for the position.

There can be a vicious circle of self-perpetuating discrimination that has nothing to do with the personal merits of an individual, and everything to do with historical, economic and social circumstances which have been effectively discriminatory. For example, as so often happens, a Native person loses a job competition because of the lack of educational qualifications. Discrimination has probably occurred. However, the locus of discrimination is not the educational requirement, but the social system that has restricted his or her access to educational opportunities.

Similarly, discrimination is occurring when, again as so often happens, a woman with impressive educational qualifications is rejected by a selection committee because of insufficient job experience in a field where women have traditionally been offered only part-time positions.

A recent Canadian Civil Liberties Association survey discovered that only two out of some 1200 firemen in the Toronto Fire Department

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*The Ontario Human Rights Code*,  
Revised Statutes of Ontario, 1970, s. 9.



were not white. This resulted from the Department's practice of stockpiling applications over the years, rather than publicly posting jobs. This practice effectively precluded the city's substantial non-white population from employment as a fire-fighter. The practice is now being corrected following a series of meetings in which the Commission participated.

A Canadian citizen is passed over for selection as an orchestra conductor or drama festival director. Discrimination does not occur at the job interview, which the Canadian applicant may never be given, but at a much earlier stage because of the widely prevalent assumption that people from somewhere else do it better.

Because historical and institutional discrimination is so pervasive and complex, the Commission cannot deal with it effectively only by responding to individual complaints. It is essential that its mandate be broadened and its procedures be made sufficiently flexible to enable it to cope with human rights problems that are at the root of discrimination, rather than dealing only with the individual incidents of discrimination that arise from such problems. For this reason, the Commission recommends that the new, revised *Ontario Human Rights Code* include provision for a complaint to be filed, not only by an individual, but by a "class of persons".

The Commission also recommends that this phrase be added to the employment section of the *Code*, so that when a minority group in a plant feel discriminated against under the terms of the *Code*, the members of the group would have the option to file a complaint as a group, rather than having to file multiple individual applications one at a time, a procedural requirement under the *Code* as it now stands which an offending employer can use to advantage.

#### **b) The Need for Affirmative Action Programs**

At present, the Commission has the authority to approve special programs of affirmative action designed to assist groups in the province that have traditionally been denied employment opportunities on grounds that are prohibited by the *Code*. Special authority is required for affirmative action programs because they may institute, in effect, a form of "positive discrimination" in favour of the people to be helped that might otherwise contravene the *Code* itself.

However, while the Commission has the authority to approve affirmative action programs in the field of employment, it cannot, as the *Code* now stands, recommend that such programs be initiated in situations where in its judgement they are needed. Moreover, the Commission at present does not have the authority either to approve or to recommend affirmative action programs at all in the areas of housing and public services. The Commission believes that such authority is needed to counter situations of discrimination and inequity in opportunity which are the result of traditional practices or the legacy of years of unequal treatment. The Commissioners therefore recommend that the revised *Ontario Human Rights Code* include provisions to enable the Commission both to approve and to recommend special programs of affirmative action.

The Commission notes that in many situations there will be a role for the government to play in supporting appropriate affirmative action programs in the private sector, and it will be prepared to make recommendations to the government in such instances. For example, employers who are prepared to provide on-the-job training to

employees to compensate for deficiencies in educational background, and developers who are prepared to make adjustments to their buildings to make it possible for disabled or aged people to live in them, ought to receive appropriate support, by such means as cost-sharing arrangements, from the government agencies involved.

A good example of a useful affirmative action program is provided by the agreement entered into on 3 July, 1976, between Syncrude Canada Ltd. and representatives of the Indian Association of Alberta and the Department of Indian Affairs and Northern Development. The program is designed to ensure the employment of qualified Indians over a ten year period in all parts of the oil-sands development. For its part, the government agreed to fund up to two years of pre-employment academic upgrading for those Indians who do not meet Syncrude's educational requirements. Syncrude agreed to arrange counselling services for Indian employees and their families to assist them with problems of adjustment to the living and working conditions involved. In addition, the company will provide orientation classes for its managerial and supervisory personnel to familiarize them with the cultural and social heritage of the Indian peoples.

Equality of opportunity is the goal. But, because of patterns of unequal access to educational, social, and job opportunities in the past, groups today such as women, Native people, racial minorities, and the physically disabled, find that other people have been given a head start. Unless these groups are assisted by carefully designed affirmative action programs, which help to redress the balance of past discriminatory practices, they will often have great difficulty in improving their lot.

The reason that no non-white officers can be found on the police force of one of our largest cities, or that the average income of men in Canada is more than twice that of women<sup>31</sup>, is not that women and blacks are innately less suitable for advancement than others. Such a conclusion amounts to "blaming the victim" for personal circumstances he or she did not cause. It is simply that in 1977 these people bear the heavy freight of practices and prejudice of former years, and so must cope as best they can with what is clearly a situation of unequal opportunity.

Some jurisdictions, particularly in the United States, have attempted to remedy long-established patterns of discrimination against various groups by requiring employers to hire quotas of people belonging to these groups. The Commission believes that this is a crude and simplistic approach to a complex problem. Such an approach casts doubt on the legitimacy of minority group achievements. Moreover, it betrays the basic principle of equality of opportunity if people are given jobs or promoted not because they are competent, but because they belong to a minority group. Such reverse discrimination, though well-intentioned, is discrimination none the less. It still spells condescension and, in the long run, it may do far more harm than good. At bottom, it is the antithesis of human rights legislation.

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*Income Distributions by Size in Canada*, Statistics Canada, Consumer Income and Expenditure Division, October, 1976, p. 16.

For these reasons, the Commission supports a different approach to affirmative action through programs which are designed to improve the qualifications and opportunities of traditionally disadvantaged groups rather than to extend preferential treatment to them at the cost of discriminating against others. Employers should be encouraged and assisted to undertake such programs in order to help members of hitherto disadvantaged groups gain entry to occupational spheres which have traditionally been kept out of their reach.

Many initiatives can and should be taken by the educational community in support of this kind of affirmative action. There is ample precedent and urgent need for such initiatives.

After the Second World War, many professional schools offered entry to people whose normal educational progress had been interrupted by circumstances beyond their control, provided they successfully completed a special make-up year. In a similar spirit, at least one law school is now offering a special program to enable Native people to qualify for legal studies, despite the problems of inequality of opportunity arising from their prior educational experience.

There is much to be gained by our whole society, as well as by the individuals and groups directly concerned, from a strong and well-planned approach to affirmative action. Referring to the area of employment, Kalmen Kaplansky, Director of the Canada Branch of the International Labor Office, wrote recently,

*I am convinced that substantial growth in minority and female employment opportunities is not only practical, but that it would trigger off through our society an infusion of enhanced income, of dignity, and of mobility, for the beneficiaries, their families, and the group of which they are a part.*<sup>32</sup>

### c) Contract Compliance:

The Commission recommends that the *Ontario Human Rights Code* be revised to prohibit any person or employer from making available in Ontario a contract which includes discriminatory terms that are contrary to the principles of the *Code*, and which, therefore, contradict the declared public policy of the Province. This proposal would make it unlawful in Ontario for anyone to discriminate directly against another person or corporation, or indirectly against any employee of another person or corporation, in seeking tenders or in awarding public contracts.

The Commission further recommends that the following section be added to the *Code*: "In making available any governmental financial assistance, in the form of a loan, grant or contract; the Crown or any agency thereof, shall ensure that the recipient does not discriminate against any person or class of persons because of any of the prohibited grounds of this Act."

Both of these proposed sections in the new revised *Code* contain provisions to allow for bona fide exemptions and for affirmative action programs when these are appropriate.

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Kalmen Kaplansky, "Social Justice: Still a Distant Goal," *Labour Gazette*, Vol. 75, No. 6, June, 1975, p. 365.

These two proposals will bring a new human rights dimension to contract compliance in Ontario. In addition, they will provide two ways in which the provincial government can help to prevent foreign-based businesses or foreign governments from forcing Ontario businesses to contravene the *Ontario Human Rights Code*, for example by joining directly or indirectly in a boycott directed against a racial or creedal group. An attempt at such coercion is now taking place in the current effort of some foreign interests to force Ontario companies to participate in a boycott against Jews. The two proposals are aimed at preventing the signing of contracts for employment, or the placing of advertising for employment, which discriminate on the basis of race and creed. Other steps can and should be taken in Ontario to counteract this abuse of human rights, particularly through a well-planned program of public education. A higher level of public awareness is needed, for example, to combat the indirect influence and current pressures from outside the country which seek to prevent the doing of business with companies that employ Jews, or have Jewish board members. Other measures which are needed to combat this abuse of human rights require federal action which should be fully supported by Ontario.

#### **d) The Role of Research and Public Education in Promoting a Better Understanding of Human Rights**

Acts of discrimination should be distinguished from the often unrecognized prejudice out of which they arise. Legislation can do something about the specific acts of discrimination. Education is needed to get at the attitudes which lie behind them.

If the Commission's work in handling individual complaints, in community relations, and in affirmative action is to have any lasting effect, it must be accompanied by a broadly based program of public education. This is undoubtedly the most strategic area for building a "climate of understanding and mutual respect" in the community.

It is critical to recognize that budget decisions determine program priorities. The Commission is well aware that the province must husband its financial resources carefully in a time of economic constraint. However, it is also acutely aware that economic recession increases competition within the community for both social and material rewards, thus accelerating inter-group tension and conflict. The costs of discrimination, to both individuals and communities will increase sharply if adequate resources are not provided to mount strong and effective human rights programs.

Unfortunately, because public education is less sharply defined than many other areas, it tends to be given a low priority by governments when they allocate their resources. Similarly, within the Commission itself, this area tends to be too easily pushed aside in the rush of what are apparently more urgent demands from the community. An individual who calls the Commission, outraged by a hate message that vilifies him and his race, is not soothed by being told that an educational program is being mounted to set such messages in their context and help people recognize them for what they are. He has already been hurt, and his complaint must be dealt with. As such calls mount, less and less staff time becomes available for the longer-term work of public education. Those who approve budgets, exercising their unconscious role as policy setters, must be persuaded of the importance of public education, particularly in a time of constraint.



For the first twelve years of its existence, the Commission was unable, for budgetary reasons, to assign even one human rights officer to work full-time on public education. Commission officers, doing their best to keep up with the mounting number of individual complaints, had also to handle public education assignments. In some cases they were able to do little more than make an occasional speech to luncheon clubs, a limited method of reaching the public consciousness on a broad scale. However, many members of the Commission staff have devoted evenings and weekends, giving generously of their own time, in order to promote public knowledge about human rights in Ontario.

In January of 1974, one Education and Research Specialist was at last appointed after a prolonged battle by the Commission to obtain the funds needed to make possible even this one appointment. One is better than none, but it is far from being an adequate number of staff to cope with the urgent need for public education to promote a better knowledge and understanding of human rights throughout this vast province with its more than eight million people. Moreover, sufficient funds must be provided, as well as staff, before any substantial program of public education can be mounted. The budgetary provision for public education about human rights in 1974-1975 was only \$59,000 to serve the whole of Ontario. In 1976-1977 the figure has dropped to \$22,000 and it has been frozen at this level for 1977-1978.

In spite of the absence of financial support from the province for public education in human rights, some important work has been done in this field. For example, representatives of the Commission and the police have worked together to design and introduce a human rights component into police training programs. A program has been initiated to increase sensitivity to minorities among taxi drivers and to assist taxi drivers who are members of minority groups to cope with racially hostile passengers. Many contacts have been established with individual schools and community groups. But the financial resources have not been made available to the Commission to mount an effective province-wide program of public education in human rights. When additional staff to deal with the increase in complaints are not available either, the situation becomes critical. Once again, in 1977, proposals put forward by the Commission to enable it to make a serious start on a wide-ranging public education program did not receive financial support.

Public education begins with information. The seventeen public hearings held by the Commission as part of this review turned out to be public education events in themselves. It became apparent that a great many people in the province have never heard of the *Ontario Human Rights Code* and that even fewer know what legal protections it provides.

The Commission strongly recommends that it be provided with the resources to enable it to hold meetings from time to time outside Toronto in various parts of the province, and to develop its contacts with communities throughout Ontario. Because individual Commissioners are active in their own communities, they can help to lift the Commission's visibility where they live and work. Beyond this, many of them undertake a heavy schedule of public appearances and community relations work outside their own communities on behalf of the Commission. So also do many members of the staff on top of their other onerous duties. It should now be recognized that little more can



be done to promote public education about human rights without the provision of a more reasonable level of financial support for this purpose.

The public relations work of the Commission must also be greatly expanded. This need was underlined in many briefs to the Commission which pointed to the necessity of a far more active public relations function by the Commission. The *Ontario Human Rights Code* is already available in English, French, and Italian. But the *Code* needs to be made available in more languages and to be put in the hands of far more people. The public should be made more familiar with its principles and with its major provisions. Unless people know about the *Code* and how to make use of it, it is of little help to them. They need to know that the *Code* is designed to ensure the fair treatment of all people — pluralities as well as minorities, employers as well as employees, landlords as well as tenants, respondents as well as complainants. It is a law that protects the community at large, as well as each individual and group within the community. Investigative and conciliation procedures need to be better understood, and decisions of Boards of Inquiry should be much better publicized. Information about cases which have been resolved without the need of a Board of Inquiry should also be made available without breaching personal confidentiality. Such information would enable others and potential victims of discrimination to know of the help available to them under the *Code*, and would serve as a deterrent to would-be discriminators. Before there can be understanding and respect for the public policy of Ontario about human rights, there will have to be a much more widespread knowledge about this policy and about the reasons for it.

If the Commission is to take its mandate seriously "to develop and conduct a program of public information and education in the field of human rights", it will have to be given sufficient resources to do this work. Greater use will have to be made, for example, of film, television, radio and other audio-visual media.

Short films on, for instance, the changing role of women in society, could assist human rights officers in their public education work and also in the resolution of specific problems. The Commission is now receiving many requests for such films from employers, personnel associations, and other community groups. But, because it lacks the resources, the Commission is not able to ensure that these films are available for either its own or the public use. The Commission's award-winning film clip, "Forest Fable", should be shown frequently on television if its message is to be projected effectively in the face of so much other competition for the viewer's attention. Forest fires should be prevented, and seat belts should be buckled up. But it is also vital to remind Ontario citizens regularly of the importance of human rights and human dignity. This cannot be achieved unless adequate staff and resources are provided. The Commissioners therefore recommend the establishment of an Information and Public Relations Unit within the Ontario Human Rights Commission with adequate financial resources to do its job. Such a development is long overdue.

The Commission should be given the resources to develop a human rights library both to support its own work and as resource open to the public. This library could be an important tool in public education about human rights and in the defence of these rights. It should bring together and make freely available, on a loan basis, the growing world literature of books and periodicals that deal with human rights as well

as copies of relevant legislation from our own and other jurisdictions, reports of boards of inquiry, and commissioned studies such as "*The Black Presence in the Canadian Mosaic*" by Wilson A. Head.<sup>33</sup> The library should be made known and easily accessible to high school and university students, to people involved in human rights problems, and to interested members of the public.

The proposed library should serve as a documentation centre for human rights materials, including the reports of boards of inquiries in our own and other jurisdictions. The continuing absence, at this late date in the country's history, of even an elementary documentation centre concerning human rights severely handicaps all those working in the field. It is an area in which this province, with its pioneering concern for human rights, could well provide national and international leadership.

The Commission therefore recommends the establishment of a Human Rights Library and Documentation Centre.

Sensible and effective human rights programs can be developed only if they are based on careful and thorough research. Extensive and continuing research is required in many different fields. Studies are needed that deal with the root causes of discrimination and with its consequences. The nature and effects of racial tension need searching examination. Surveys must be made of employment patterns throughout the province, in both the public and the private sectors. Detailed reviews of recruitment and promotion policies are required. Unless such research is done on a sustained and professional basis, human rights problems will often be tackled on an ad hoc and superficial basis. The Commissioners therefore recommend the establishment of a Research Unit within the Ontario Human Rights Commission and that adequate budgetary resources be made available to make possible the major research effort in the field of human rights which is now urgently required.

The Commissioners note with concern that the obvious need for publications about human rights is not being met. The range of publications required is varied and extensive. Book-length studies of specific topics are needed, as well as shorter booklets and pamphlets for public distribution and for use in the schools. Casebooks and printed collections of source materials are also required. To meet this need, we recommend that the Ontario Human Rights Commission be equipped with the financial resources to initiate a program of support for publications in the field of human rights, both by assisting others to prepare such publications through grants and contracts and by undertaking itself the preparation of appropriate publications.

The Commissioners note, also, the need for a more active program to publish and distribute widely current information in periodical and newsletter form about developments in the human rights field. The journal, *Human Relations*, which is now put out by the Commission at only sporadic intervals because of lack of funds, ought to become a quarterly publication, with articles from both Canadian and interna-

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Dr. Wilson A. Head, *The Black Presence in the Canadian Mosaic, A Study of Perception and the Practice of Discrimination Against Blacks in Metropolitan Toronto*, (Toronto, 1975).

tional sources. In addition, the Commission's newsletter, reflecting current decisions, problems, and progress in Ontario, should be published more frequently and distributed more widely. The Commissioners therefore recommend that budgetary provision be made for the Ontario Human Rights Commission to undertake a more active program of periodical and newsletter publication and distribution.

The Commission's summer internship program for students should be expanded to enable more students each summer to gain experience about human rights issues and programs in various locations throughout the province.

In addition to such broad approaches to community relations, public education should be focused more sharply on people who, through their work, come into daily contact with human rights problems. As the racial and ethnic composition of the province changes, everyone needs assistance in recognizing and dealing with his or her own inherited prejudices and in developing an understanding and awareness of cultural differences.

When a police officer's first question to the black driver of an expensive automobile is "Whose car is this?", he is expressing a prejudice, whether consciously or unconsciously. Although the question may have been asked without malice, it reveals a stereotype of blacks that can be as offensive and dangerous as the more overt forms of racism. All police training programs in the province should include mandatory instruction in human rights designed to help their recruits face and cope with their own attitudes to those who belong to cultural groups other than their own. Instruction of this type should also be made mandatory for police officers already in service. Other professional and vocational groups that would benefit from such exposure to human rights education include teachers, lawyers, judges, doctors, nurses, welfare officers, employment counsellors, and personnel officers.

The Commission should be provided with the resources to enable it to assist in the planning and design of such programs in human rights education for specific occupational groups, and also to assist with the preparation of instructional materials.

#### **e) Human Rights and the Educational System**

The attitudes and values to which young people are exposed in school will greatly influence their future conduct. The school room and the school yard provide natural and appropriate opportunities for students to learn about human rights, both through formal instruction and through personal experience. Failure to recognize this fact and to incorporate a human rights dimension in the educational program will often mean that old prejudices and hand-me-down discrimination win the field by default. If careful thought is not given to the inescapable human rights factor in education, students can as easily learn prejudice at school as they can learn to respect one another's differences and to value diversity. Thus, the educational system bears a particular responsibility for the furtherance of human rights by providing knowledge, understanding, and positive example that will counter the ignorance and misinformation on which prejudice and discrimination are based.

If it is public policy in Ontario that "every person is free and equal in dignity and rights", then the schools ought to reflect and forward that policy. It will not grow by itself. No one should graduate from an

Ontario secondary school without having engaged in some serious classroom study and discussion about the concept and principles of human rights and about how these can be applied in practice. Before leaving elementary school, every student should be aware of the existence of the *Ontario Human Rights Code* and be familiar with its purposes.

Where appropriate, some formal instruction about human rights should be introduced into the curriculum, for example in such courses as "Man in Society". But it is even more important that an awareness and knowledge of human rights should pervade the whole curriculum. It is no longer appropriate to attempt to understand history simply by memorizing the kings of England or the prime ministers of Canada, or the names of the explorers who "discovered" Africa. Africa was not discovered; it was always there. It would help to promote a "climate of understanding and mutual respect" in Ontario if more attention were devoted in the schools to the study of the culture of other societies. Such study will help Ontario students to understand world events. It will also help them to understand and appreciate the rich multicultural heritage of their own society.

Our educational system must recognize, to a substantially greater degree than it now does, the multicultural character of Ontario and the fundamental importance of human rights to our society. There should be, at regular intervals, a full and careful review of the school curriculum to ensure that it reflects, both in the subjects taught and in the way in which they are taught, the diverse culture and history of our country. In particular, there should be a significant expansion of the opportunities for students to take courses pertaining to the language and culture of the many different peoples who have made their home in Ontario.

It is also essential that the province's policy on textbooks and other learning materials be carefully reviewed at regular intervals to ensure that these reflect the very rich and diverse multicultural character of our society. For example, in the names used in elementary readers, there has been a surfeit of Dick, Jane and Spot. It would assist increasing numbers of students to identify with the stories in such readers if names like Yvonne, or Ivan, or Guiseppe, for example, were used more often, reflecting the changing composition of our society. Similarly, teaching about people and events in our history could often promote an understanding of cultural diversity more effectively and naturally than is now the case. For example, it would be appropriate, natural and accurate for textbooks and teaching in this province, with its hundreds of thousands of people of Italian ancestry, to acknowledge that it was Giovanni Caboto, not John Cabot, who was one of the first Europeans to visit this country.

In the same vein, a better balance should be sought in the general literature taught in our schools by ensuring that use is made of authors of cultural backgrounds as diverse as those of the students who are being taught. There are good reasons for including in the curriculum more study of the great authors who have contributed to the world's literature by writing in one or another of the linguistic cultures that have, in addition to English, come together in Ontario.

Care must be taken not only to demonstrate the cultural diversity of Ontario in curriculum and textbooks, but also to ensure that prejudice and discrimination are not recycled and perpetuated. Textbooks often unconsciously encourage prejudice against minority groups. Of



necessity, history is taught selectively, but frequently what is selected slights minorities in our society or fosters negative attitudes towards them. Students seldom learn, for instance, that whites encouraged Indians to scalp, and often took scalps themselves; that slavery existed in Upper Canada; and that black Canadian militia units fought in defense of their country in the War of 1812. Careful attention must be given to the contents of textbooks to ensure that they are accurate and sensitive to minority history, customs and values.

In 1971, the Ontario Human Rights Commission, in cooperation with the Ministry of Education, sponsored a study by Garnet McDiarmid and David Pratt, called *Teaching Prejudice*, which examined the textbook situation in Ontario and made wide-ranging recommendations for improvement. The Commission, working with the Ministry of Education, has been able to bring about significant changes in textbook content on the basis of these recommendations. None the less, it is appropriate to repeat here some of that study's recommendations:

*To overcome defects of commission over the short term, we recommend that publishers be asked to make appropriate revisions in all texts containing the errors and defects noted in this study, and that in the interim teachers of social studies throughout the province be provided with lists of errata in textbooks. To overcome defects of omission, we recommend that books be sought, and if necessary commissioned, which provide scholarly and up-to-date information on the history and status of minority groups in Canada and elsewhere and on the general area of the dynamics of prejudice — including such issues as the concept of race — and that such books be approved for use as social studies texts in Ontario schools. In addition, we recommend that Department programs of study, especially for Canadian history and geography, be revised to give more emphasis to the role and status of minority groups.*

*To prevent the use of inadequate or biased textbooks in the future, we recommend that the Department of Education develop guidelines for publishers and authors which, while maintaining the maximum legitimate freedom for the author, would prevent unjustified negative or discriminatory treatment of minorities.*

*We recommend further that a standing committee for the evaluation of textbooks be established which would include representatives of the Ontario Human Rights Commission, the Department of Education, OISE, and other institutions of higher learning, and the social studies texts be submitted to the International Schoolbook Institute in Brunswick, West Germany, for an evaluation of their inter-group content.*

*To ensure the fair treatment in textbooks of all minorities, we recommend that further studies be conducted in the future to assess progress in the treatment of subcultures in our society, including ethnic, racial, and religious minorities, and to assess the treatment of such other groups as women, the poor, youth, the aged, trade unionists, and political minorities.*

*Finally, since the whole matter of inter-group relations is of national*



importance, we recommend that all teacher education authorities give this matter top priority in developing their instructional programs.<sup>34</sup>

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Prejudice and discrimination can also be inculcated and perpetuated by the physical design of school buildings, by the nature of extra-curricular programs, and, most ironically, even by the school's official guidance activities. One of the briefs presented to the Commission was prepared by a group of high school students in Toronto during the teacher strike in 1976. With the aid of audio-visual materials, these students demonstrated vividly how the very design of a school can both reflect and promote attitudes towards male and female roles that betray discrimination. In the group's own school, the girls' gym space, which lacks showers, is smaller and less well-equipped than the boys', which has showers. Yet more girls than boys participate in the school's gym programs.<sup>35</sup> Similarly, old stereotypes of male and female roles are perpetuated at another school, in eastern Ontario, where girls are required to take Home Economics and boys to take Shop, with no crossovers. In Thunder Bay, by contrast, boys may take "bachelor survival" courses if they wish, and girls may take Shop.

An analysis of guidance pamphlets found that girls were generally encouraged to become hygienists or nurses, while boys were encouraged to become dentists or doctors. Although the cover of one recent guidance pamphlet depicts a woman in a white coat, the text inside refers to the doctor throughout as "he". Such male and female stereotyping was also found in primary school readers, where the message seems to be that "Dick does" and "Jane watches".

The foregoing emphasis on the human rights dimensions in each of curriculum, textbooks, facilities, programs, and guidance points to the particular importance of teacher training to all aspects of human rights in the educational system. It cannot be assumed that people going into the teaching profession will automatically respond with sensitivity to cultural differences. Like everyone else, teachers can harbour latent prejudice. They emerge from the province's life and they bring the problems and current prejudices of that life with them to their work. It is essential that teacher training provide adequate opportunities for student teachers to learn to recognize and cope with prejudice and discrimination, both their own and others. The Commission therefore recommends that all teacher training programs include appropriate human rights programs in their curriculum. These programs should include, in particular, instruction about the intent and application of the *Ontario Human Rights Code*.

In-service training programs for teachers should also promote a fuller knowledge and understanding of human rights. Professional development days, summer courses, and special workshops for principals, vice-principals, and guidance counsellors, should be used to discuss the principles of the *Code* and the application of these principles in the school system. Opportunities should be increased for

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Garnet McDiarmid and David Pratt, *Teaching Prejudice: A Content Analysis of Social Studies Textbooks Authorized for Use in Ontario* (O.I.S.E., Toronto, 1971), pp. 109-110.

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Brief to the Code Review Committee of the Ontario Human Rights Commission from Bruce Ward et. al., May, 1976.

educators to develop their abilities to evaluate the performance and potential of the student whose background has been in a foreign school system. Teacher education should help members of the profession to communicate more effectively with students who are unfamiliar with Canadian teaching styles and materials, and to ensure that the expectations of the family and peers of an immigrant student do not undermine the student's ability to fulfil academic requirements and to participate in classroom discussions and extra-curricular activities.

Teacher education should be broadened so as to prepare teachers for the multilingual and multicultural classes which they will encounter in many parts of Ontario. As part of their training, teachers should be familiarized with the background, traditions, and language of their students in situations in which the school has significant numbers of students whose original language is other than English or French, in order that they can understand their students better and be of the greatest possible help to them. This will involve changes in the curriculum of teachers colleges and colleges of education, and also providing in-service training for teachers who receive appointments to schools with students from cultural backgrounds different from their own.

Beyond this, the membership of the teaching profession ought, in itself, to reflect better than it now does the multicultural composition of the province. Because of the large increase in the numbers of students of diverse cultural backgrounds, Ontario classrooms require more teachers who are familiar with, and sensitive to, the learning styles, customs, and family expectations of these students. The school staff should represent to some reasonable degree the different cultural backgrounds of the student population. To achieve this end, a particular effort must be made to recruit to the teaching profession representatives from cultural groups that are now under-represented in it. As an interim measure, suitably qualified volunteers should be brought regularly into the classroom, as recommended in the report of the Hall-Dennis Commission, *Living and Learning*.

There is a need to strengthen the participation of almost every minority in the teaching profession and to make the profession more sensitive to their needs. However, the Commission notes the particular need for the school system to recognize and to respond more effectively to the special and distinctive problems of the Native peoples. Every measure possible should be taken, and taken as promptly as possible, working in close consultation with the Native peoples, to improve their educational opportunities.

The Commission notes, also, the need for the province to press forward more vigorously towards its declared objective of equality of opportunity for anglophone and francophone children in the school system of Ontario.

Both community colleges and universities should review their programs to ensure that they are sensitive to human rights considerations. Discrimination based on old prejudices and stereotyping is as prevalent at the post-secondary levels of education as it is in the primary and secondary levels. Community colleges should include instruction about human rights in appropriate courses, for example in those dealing with employment conditions, tourism and recreation, law enforcement, and nursing. Relevant courses should be provided by the colleges in language and culture, at an effective working level, as part of their service to the communities in which they are located.

Universities need to look carefully at their regulations, curriculum, and facilities to see whether they are providing a real equality of opportunity to men and women, and to students of diverse cultural backgrounds. Discriminatory provisions should be removed. In terms of actual instruction about human rights, very little is now included in the formal curriculum of most universities. More attention should be devoted to human rights in such courses as political science, sociology, history, and commerce, and in such professional education programs as law, medicine, business administration, and social work. Far more research work is also needed at the university level in the field of human rights.

The education system cannot be blamed for all the ills of society. Nor will education alone remove discrimination from our society. None the less, schools, community colleges, and universities can do much to erase the fears and irrationality on which discrimination is based. Moreover, they must ensure that they are not themselves perpetuating prejudice by adhering uncritically to old patterns.

The Human Rights Commission has an important part to play in assisting the educational community to make its full contribution to the elimination of discrimination. But it must be provided with the resources required for it to play this part.

Following its extensive public inquiry into the current state of human rights in Ontario, the Commission has concluded that it is desirable to widen the application of the *Ontario Human Rights Code*. Specific recommendations to this effect are set out below:

#### a) Hate Literature

The *Ontario Racial Discrimination Act* of 1944 helped to eliminate the discriminatory signs that once blighted beaches and hotels in Ontario. The goals of this early legislation were incorporated into the *Ontario Human Rights Code* in 1962 and balanced by a clause stating that "... nothing in this section shall be deemed to interfere with the free expression of opinion upon any subject"<sup>36</sup>, a clause similar to one that appears in the *Universal Declaration of Human Rights*. The signs are gone and are not likely to reappear. But this section of the *Code* has continuing historic and educational value as an affirmation of an important human rights principle.

Racial hatred, however, continues to be purveyed and fomented through taped telephone messages and the distribution of leaflets, pamphlets, posters, and books. A bill currently before the Canadian House of Commons would limit telephonic communications that are "likely to expose a person or persons to hatred or contempt"<sup>37</sup>. The Commission recommends that a similar phrase be added to the section on "public representations" in the proposed revision of the *Ontario Human Rights Code*. It also proposes that the *Code's* prohibition of publications or displays "indicating discrimination or an intention to discriminate"<sup>38</sup> be strengthened by adding the words "fostering discrimination".

These recommended additions to the *Code* are intended to achieve a more reasonable balance between freedom of speech and the right of individuals and groups to freedom from discrimination and racist abuse in the Ontario community. The recommendations are in keeping with both the spirit and letter of the *International Covenant on Civil and Political Rights*, passed by the United Nations General Assembly in 1966 and ratified by Canada in 1976, which includes an explicit qualification of the right to freedom of expression.

<sup>36</sup>

*The Ontario Human Rights Code*,  
Revised Statutes of Ontario, 1970, c.  
318 as amended, s. 1(2).

<sup>38</sup>

*The Ontario Human Rights Code*,  
Revised Statutes of Ontario, 1970, c.  
318 as amended, s. 1(1).



*The exercise (of this right) . . . carries with it special duties and responsibilities. It may therefore be subject to certain restrictions but these shall only be such as are provided by law and are necessary: a) for respect of the rights or reputations of others, b) for the protection of national security or of public order or of public health or morals.*"<sup>39</sup>

The proposed strengthening of this section of the *Ontario Human Rights Code* should make possible more effective action against the current widespread distribution of hate literature. It is also an affirmation of the province's public policy of seeking to create "a climate of understanding and mutual respect" which will support public education efforts towards this goal.

### **b) Services and Facilities**

The *Code* as it now stands prohibits discrimination in the provision of "accommodation, services or facilities available in any place to which the public is customarily admitted"<sup>40</sup>.

The first half of this phrase, which was drawn from the *Fair Accommodation Practices Act* of 1954, had particular relevance in the 1950s and 1960s to the elimination of discrimination in hotels and restaurants, and it has continuing value for this purpose. There is, however, a problem as to the meaning of the term "customarily" which appears at the end of this phrase. It can mean "usually", in which case university admission procedures, for instance, may not be covered because a university is not a facility to which the public has unlimited access. The term could also mean "by custom, as that is ascertained from past experience", which would defeat the purpose of the legislation by legitimising discriminatory practices that are based on past custom. The membership policies of some private clubs and fraternal organizations are blatantly discriminatory. For example, one required prospective members to certify in writing that "... I am of sound mind and body, being a member of the Caucasian, white race, and am not married to one of any other race . . ." <sup>41</sup>. However, there has not yet been an authoritative Canadian judicial decision as to how "available to the public" the facilities of an ostensibly "private" club or association must be before they become subject to anti-discrimination legislation.

Most jurisdictions are understandably reluctant to make laws impinging on the right to private association. For similar reasons, the Commission recognizes that it would be inappropriate to require total public access, by law, to many different kinds of private association that embody freedom of choice in personal relationships. None the less, it is not always easy to determine when and to what extent an

<sup>39</sup>

"International Covenant on Civil and Political Rights", *Human Rights, A Compilation of International Instruments of the United Nations*, (New York, 1973), Article 19, p. 7.

<sup>40</sup>

*The Ontario Human Rights Code*, Revised Statutes of Ontario, 1970, c. 318 as amended, s. 2(1).

<sup>41</sup>

The Loyal Order of the Moose, with an Ontario membership in excess of 16,000 in 1970, required prospective members to certify in writing . . . "I am of sound mind and body, being a member of the caucasian, white race; and not married to one of any other race and a believer in a Supreme Being."



ostensibly private club or association is, in fact, private. The public pressure to examine such associations when they are obviously based on notions of privilege and discrimination that contravene the spirit if not the letter of the *Ontario Human Rights Code* is clearly rising. The Commission therefore recommends that private clubs and associations review their requirements and criteria for membership to ensure that these are reasonable and legitimate and that they do not contravene the spirit of the *Code*.

There is also a problem with the term "place" as it is used in this clause of the current *Code*. It leaves outside the ambit of the legislation a range of services which are not confined to a given place, such as the administration of social welfare and access to credit from provincial institutions. Employment in such areas is currently within the Commission's jurisdiction, but its authority to deal with institutional procedures or personnel practices in these areas is less clear.

The Commission recommends, therefore, that the phraseology in the existing *Code* be replaced by the simpler, and more comprehensive term, "...public services and facilities".

### **c) Discrimination by Association**

It has been the experience of the Commission that discrimination sometimes takes place against a person because he or she is married to, related to, or accompanied by some other person who belongs to a group against which discrimination is prohibited. Housing accommodation, employment, and access to public places are sometimes denied for this reason.

The Commissioners therefore recommend that the sections of the *Code* dealing with services and facilities, property, and employment practices be amended to prohibit discrimination against a person or class of persons because of "association with any other person or class of persons against whom discrimination is prohibited by this Act." It is further recommended that exemptions be granted only in cases where the Commission has determined that one of the prohibited grounds is a bona fide requirement.

### **d) Housing and Property**

The Commission's experience indicates that it has often been more difficult to combat discrimination in the sale and rental of housing accommodation than in hiring and employment, because the two sectors operate according to different market forces. Industrialists must meet production demands, and employers must fill job vacancies. Thus, there is less financial incentive to discriminate in employment than in residential occupancy, where a shortage of housing sometimes encourages realtors and landlords to manipulate their marketing arrangements so as to exclude so-called "undesirable" occupants. Some landlords, for example, charge higher rents and impose more stringent conditions of occupancy with the intent of excluding members of minority groups.

The brief to the Commission from the Canadian Civil Liberties Association summarized the results of its recent survey of thirty real estate agencies. The survey revealed that realtors across the province were often being asked by their clients to deny the sale of property to non-whites and that only three of these agencies had said that they

would not comply with such a request even though it was clearly discriminatory and racist.<sup>42</sup>

The prestige attached to the ownership of property in our society, as in so many others, and the high value placed on the security of that property, are frequently seen to justify the denial of housing to groups which appear to pose a threat to these values. Thus, housing legislation involves sensitive social relationships, as well as powerful economic interests.

To meet this situation, the Commission recommends that the section on housing in the present *Code* be expanded to accommodate urgent social needs in this area. All prohibited grounds of discrimination should be included (the present *Code* excludes marital status and age). The Commission therefore recommends that the section be extended to cover discrimination "against any person or class of persons with respect to the buying, selling, or renting of property". As with all other social areas, provision should be made for exceptions where the Commission may determine that one of the prohibited grounds is a "bona fide requirement for occupancy, sale, or purchase". Provision is also made for the recommendation or approval by the Commission of "any special plan or program to provide housing or commercial accommodation or property for members of a group, or class of persons, against whom discrimination is prohibited."

Professor Ian Hunter has provided valuable historical background for the interpretation of this section:<sup>43</sup>

*The original Ontario Human Rights Code of 1962 prohibited discrimination in the rental of apartments and buildings containing more than '... six self-contained dwelling units' (a) Over the next five years the numerical restriction was first reduced then eliminated and, by 1967, the Code simply referred to "... any self-contained dwelling unit", but left that term undefined. (b) The attempt to define it prompted the most protracted litigation in the history of Canadian human rights legislation, culminating in a divided Supreme Court of Canada. (c)*

*The majority judgement ... restricted the interpretation of the words 'self-contained premises similar to an apartment in an apartment house' (d), thereby excluding from the ambit of the Code's protection lower cost urban housing — rented rooms, tenements, duplexes, flats in converted private houses, etc. The*

<sup>42</sup>

Brief to the Code Review Committee of the Ontario Human Rights Commission from the Canadian Civil Liberties Association, January, 1977.

<sup>43</sup>

Professor Ian A. Hunter, *Human Rights in Canada: Its Origin, Development and Interpretation*, Research Paper prepared for the Code Review Committee of the Ontario Human Rights Commission, August, 1976, pp. 23-24.

a) Statutes of Ontario 1961-1962, c. 93, s. 3.

b) The evolution of this section is presented in detail in Hunter's "Development of the Ontario Human Rights Commission, A Decade in Retrospect", (1972) 22 *University of Toronto Law Journal*, 237 p.p. 239-240 and p.p. 253-257.

c) R.V. Tarnopolsky ex p. Bell, r 79.

d) Ibid, per Martland J. (1971) 18 *Dominion Law Review* (3d) 1 at 14.

*anomalous result of the Supreme Court's interpretation was that human rights legislation prohibited discrimination in large apartment complexes where little discrimination occurs and where high rents disqualify many minority group tenants; it did not apply to that kind of lower cost urban housing where economic necessity compels the urban immigrant or the Indian to seek accommodation. "The Ontario legislature moved quickly to rectify this anomaly by deleting the phrase 'self-contained dwelling unit' and substituting 'housing accommodation' defined in very specific terms to preclude ambiguity.*

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The Commission recommends the same definition of housing be used in regard to the section of the *Ontario Human Rights Code* that deals with discrimination in housing.

### **e) Employment Practices**

The *Ontario Human Rights Code* has jurisdiction over ninety per cent of the Ontario workforce, and some eighty per cent of the Commission's caseload is in the area of employment.

Contrary to arguments that are sometimes heard, anti-discrimination legislation is consistent with the imperatives of modern industrial society which require that people be hired for jobs on the basis of merit. Equality of employment opportunity is both a social and an economic necessity.

In the employment sector, rules and procedures designed to regulate industrial conflict have frequently been emphasized, while rules about recruitment and hiring practices and working conditions have been largely neglected. A premium has been placed on obtaining industrial peace, with less attention being given to the terms on which it may be obtained. It is both unfortunate and ironical that so little attention, comparatively, has been given to developing the kind of employment practices and working conditions which are the real basis of industrial peace. Apart from a still limited number of exceptions, rules against discrimination in employment have neither been expressly formulated nor widely accepted in industry. Certain discriminatory practices have been left undisturbed and basic human rights have not been adequately protected.

In order to deal more effectively with discrimination in employment, the Commission recommends a revision to the *Code* which will both shorten and strengthen the relevant section. The present *Act* specifies seven areas of employment practice in which discrimination is prohibited. However, such a list cannot be comprehensive. Discrimination often occurs "in the gaps". The Commission, therefore, recommends that the *Code* be amended to prohibit discrimination in refusing "to employ or continue to employ or to refer for employment" and "in the course of employment".

The Commission also recommends that "class of persons" be added to "persons" against whom discrimination is prohibited.

We recommend, further, that the terms "employ" and "employer" be defined in the *Code* so as to make clear that the section covers not only employer-employee relationships that are direct, but also those that are indirect such as contracts for services performed by employees who are not under the immediate supervision of an employer. Accordingly, it is recommended that the word "employ", as used in the *Code*, be defined to mean "to engage or utilize the services of a person either directly or

indirectly through an employer". Similarly, it is recommended that the word "employer", as used in the *Code*, be defined to include "a person who contracts with a person for services to be performed by that person or wholly or partly by another person." Under the *Code* as it now stands, for example, if a householder contracts for home repair service with an appliance company but then rejects the person sent to the house to perform this service because of one or more of the prohibited grounds, that employee who is the victim of discrimination would not be able to file a complaint under the *Code* unless he or she had been penalized or fired by the company as a result of the incident. Under the proposed new definitions, the householder in this case would be regarded as an employer against whom a complaint of discrimination could be filed under the *Ontario Human Rights Code*.

Under the present *Act*, it is possible for an employer who is paying higher wages to men than to women or vice versa, for work of equal value, to meet the requirements of the *Code* not to discriminate on the basis of sex simply by reducing the salary of the higher paid employees to the level of the lower paid employees. In the proposed revision of the *Code*, the Commission recommends inclusion of a clause to prohibit such a practice.

The Commission is encountering a growing number of incidents of discrimination committed on behalf of clients by such intermediaries as employment agencies and management consultants. This practice constitutes, in effect, a "laundering" of discrimination in the sense that the employers themselves have no direct contact with the victims and thus do not appear to be acting in contravention of the *Code*, though clearly they are as responsible for discrimination as the agent who accepts the assignment. Because these employers do not appear to be themselves denying human rights, it is often difficult for the Commission, under the present terms of the *Code*, to take action against them. Indeed, acts of discrimination of this kind are frequently so covert that the victim may not even know that he or she is being discriminated against, let alone whether it is the employer or the agent who is responsible for the discrimination.

The survey sponsored by the Canadian Civil Liberties Association found that twenty-two out of thirty employment agencies investigated in Toronto, London, Hamilton, and Ottawa, were willing to accept discriminatory assignments from employers. Under the *Employment Agencies Act*, an employment agency may lose its license if, among other reasons, "it is not worthy of public confidence."<sup>44</sup> In this province, where such discrimination is contrary to public policy, the acceptance of discriminatory assignments of this sort by employment agencies should be interpreted as a breach of the public confidence and cause for the loss of their license.

The Commission recommends that procedures be established to monitor the referral practices of employment agencies to ensure their fairness and their compliance with the *Code*. To make this possible, such agencies will need to maintain records on the minority status of the applicants who seek their services. The *Code* currently prohibits an employer from requesting and recording information concerning the race, creed, colour, nationality, ancestry or place of origin of



applicants. The Commission believes it may be necessary to grant exemptions to this provision, to enable employment agencies to keep such records for monitoring purposes.

In addition to the proposed new section on contracts, the Commission recommends that a section be added to the *Code* which would require all companies doing business with the Government of Ontario to adhere to the principles of the *Code*. This will give assurance to people working for such companies that they will always be protected from discrimination when working on behalf of the Ontario Government. It will also enable the Government, where appropriate, to encourage the introduction of affirmative action programs for minority groups that have historically not had equal access to job opportunities.

The Commission recognizes that considerable conscious and unconscious discrimination takes place when employers' associations and occupational associations apply their criteria for membership. In some instances, these criteria are bona fide requirements. But when they contravene the *Code*, exemptions from the relevant provisions should be requested from the Commission and considered by it on a case by case basis, each on its own merits. The Commission therefore recommends that the present provisions of the *Code* which prohibit discrimination by trade unions and self-governing professions be extended to include employers' associations and occupational associations.

## **f) Exceptions**

Various clauses in the existing *Ontario Human Rights Code* provide for different types of exemptions. The *Code* does not apply, for example, to the employment of domestics, and to the employment practices of religious, philanthropic, non-profit, educational, fraternal, and social organizations. The present *Act* also provides for exceptions by noting that in some cases age, marital status, or sex, may be "bona fide requirements".<sup>45</sup> It omits marital status and age as prohibited grounds for discrimination in housing.<sup>46</sup> And the provisions of the *Code* relating to nationality do not apply to self-governing professions.<sup>47</sup>

The Commission recommends a general exemption clause for each of the social areas, allowing for situations where the general prohibition of discrimination may not apply because one of the prohibited grounds is "determined by the Commission" to be a bona fide qualification or requirement.

In briefs submitted to the Commission, many religious groups, for example, indicated embarrassment at being given a general exemption from living up to the principles of the *Code* in their employment practices. They would prefer to apply for exemptions only in any cases where they thought it necessary, for instance, to hire a person of a particular creed when and if they thought this should be a requirement for a specific position.

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*The Ontario Human Rights Code*,  
Revised Statutes of Ontario, 1970, c.  
318 as amended, s. 4(6).

46

*Ibid*, s. 3(1).

47

*Ibid*, s. 4a(2).



To exempt certain organizations from living up to the principles of the *Code* is to encourage the possibility that they will not. To list specific grounds which might be bona fide exceptions in certain cases leads to the expectation that they will often be so regarded. In the same way, the omission of certain grounds from specific social areas may appear to condone discrimination in those areas.

The Commission therefore recommends that the *Code* be amended to remove all blanket exemptions. The Commission further recommends that it be empowered to receive, review and decide upon specific requests for exemptions from all the prohibited grounds and in all the social areas covered by the legislation. These changes would mean that, in every case, an exemption would be granted only after a request was made to the Commission and approved by it. Those cases where exemptions may be required should be dealt with one at a time, so that the principle of adherence to the policy and standards of the *Code* will be clearly recognized and widely understood.

### a) The Problems of Diffusion

No one could have attended the seventeen public hearings held in connection with this review of the *Ontario Human Rights Code* without being forcibly reminded that many people and many groups of people are being discriminated against in this province because they are members of a minority. Many individuals and groups were forthright in making their needs known. However, they were not left to raise their voices alone on their own behalf. Briefs from the physically disabled spoke out for those with criminal records. Heterosexuals called for the protection of homosexuals. Native people expressed concern about the plight of those, Native and non-Native alike, who are denied accommodation because they have children. Many other examples could be cited. In some of these situations, the individuals and groups concerned, who are not now protected by the *Code*, can be helped under other legislation. But many others have no defense against discrimination.

But simply to include more prohibited grounds in the legislation is not enough. The Commission has neither enough staff nor enough funds to administer and enforce the present *Act*, much less an expanded *Code*. Even if more adequate resources were provided, there would remain the problem of diffusion. That is, the Commission's efforts to protect human rights could be weakened by spreading these efforts too thinly. If the *Code* is broadened too much, there is danger that the Commission would be required by law to handle complaints under so many categories of discrimination that it might not be able to deal effectively with even the most serious problem areas, for example racial discrimination. In some southern jurisdictions in the United States, people with racist views have been known to favour the addition of new grounds to human rights legislation for this very reason. Each new area of responsibility added to the workload of their Commission reduced its ability to protect human rights, particularly when staff and financial resources were not provided to help cope with these added responsibilities. This point has been well made by Galen Martin of the Kentucky Commission on Human Rights:

*Is the growing list of added coverages in state and local civil rights laws diluting the fight against racial discrimination?*

*Is there a national conspiracy to undermine, weaken, and dissipate state and local civil rights enforcement by loading the agencies with many new areas of coverage which divert them from their original*

In the same article, Galen Martin notes that many of the human rights commissions in the United States were pressured to expand their coverage by the legislators of the states in which they operate. However, once they expanded their coverage, they were denied, by these same legislators, the resources required to handle the increased workload that resulted. Because of this trend, many human rights workers in the United States believe that the ability of some of their commissions to deal effectively with the major problems of race and colour has been reduced.

The Ontario Human Rights Commission is concerned that its ability to deal with major problems of discrimination should not be reduced by an undue expansion of the *Code*, or by an extension of responsibilities that is not accompanied by the provision of adequate resources.

#### **b) Race and Colour:**

In the fiscal year 1976-1977, race-related complaints made up 58 per cent of the Commission's caseload; in 1975-1976, race-related complaints constituted 57 per cent of the caseload. As these statistics make clear, the protection of people from racial discrimination is a major responsibility of the Ontario Human Rights Commission, and one that requires very substantial attention and resources. Moreover, there are many indications that incidents involving racial discrimination are increasing. Members of visible minorities in Ontario, particularly in the urban centres, are encountering discrimination daily in many forms. The Native peoples of the province continue to experience discrimination, alternately brutal and paternalistic which is both racist and cultural. Indeed, a pattern of rising racism has been identified by non-white minorities, researchers, and the Commission's Community Relations Unit.

Although other forms of discrimination must receive careful attention, and the Commission is recommending the addition of new grounds to the *Code*, there can be no doubt that race-related issues are central to the work of the Commission and must remain a major priority in this work.

The number of reported incidents of racial violence in public places has increased dramatically in recent years. Commission staff have found that incidents of assaults and verbal abuse directed at non-whites usually involve two or more white youths between the ages of fourteen and twenty-two. As was the case during the Great Depression, severe job shortages and economic constraint provide the climate for hostility against members of visible minorities who are seen as illegitimate competition for economic and social rewards.

The increase in non-white immigration during the past decade, especially to the large cities, has also provided occasion for the expression of racial discrimination. Accurate statistical data about the

ethnic composition of Ontario's population are difficult to acquire. One source, however, indicates that significant increases have taken place in the size of the province's visible minority communities since the last national census was taken in 1971. It points out that between 1971 and 1975, the number of people from the Indian sub-continent resident in Ontario increased from 53,365 to 76,876; the number from the West Indies and the Caribbean from 19,560 to 65,680; and the number from China, Hong Kong and Singapore from 39,325 to 59,014.<sup>49</sup> Other estimates vary widely. But, however they may differ, the figures do clearly point to a substantial increase in the size of the province's visible minority population and to the fact that most of this increase is concentrated in the major urban centres.

Professor Wilson Head's 1975 study, *The Black Presence in the Canadian Mosaic*, documented the sense of discrimination experienced by blacks in Metropolitan Toronto in dealing with commercial and social agencies, hospitals, the mass media, loan companies, and police.<sup>50</sup> In response to a climate of hostility and indifference, a number of groups have recently been organized, for example, the Urban Alliance on Race Relations, the Continuing Committee on Race Relations, the Committee of Concerned Citizens for Response, the Council for Racial Harmony, the East Indian Defense League, and South Asians for Equality. The mood and thrust of these and other groups range from the moderate and study-oriented, to some which advocate vigilante action.

Briefs received by the Commission at every public meeting spoke of the "current climate of racial intolerance"<sup>51</sup>: Some mentioned "the special discrimination to which Native People are subject in Ontario"<sup>52</sup>. Others spoke of the proliferation of racial slurs and hate propaganda . . . Children assaulted on school grounds. Places of worship vandalized. Modes of dress, saris, turbans, which ought to be individual preference, are frowned upon."<sup>53</sup> Another said, "It has been proven possible for law enforcement officers to match descriptions of white suspected offenders without stopping every person who passes by. Past experience indicated that when black suspects are sought, every black person who comes within view of a law enforcement officer is stopped."<sup>54</sup>

Again and again throughout the history of our own and other societies, visible minorities have been a target for popular resentment

<sup>49</sup> "Growth of Ontario Ethnic Groups 1972-1975" *Province of Ontario Information Sheet*, Ministry of Culture and Recreation.

<sup>50</sup> Dr. Wilson A. Head, *The Black Presence in the Canadian Mosaic, Perception and the Practice of Discrimination Against Blacks in Metropolitan Toronto*, (Toronto, 1975).

<sup>51</sup> Brief to the Code Review Committee of the Ontario Human Rights Commission from the Urban Alliance on Race Relations, June, 1976.

<sup>52</sup> Brief to the Code Review Committee of the Ontario Human Rights Commission from the Ontario Federation of Labour, June, 1976.

<sup>53</sup> Brief to the Code Review Committee of the Ontario Human Rights Commission from the South Asians for Equality, June, 1976.

<sup>54</sup> Brief to the Code Review Committee of the Ontario Human Rights Commission from the Jamaican-Canadian Association, June, 1976.



on the part of those who find it convenient to use others as scapegoats for their own shortcomings. An examination of the profiles of non-white complainants and the concerns they bring to the Commission reveals that non-whites face barriers in employment and housing even when their educational achievement, occupational level, and economic status are on a par with or are superior to those of whites. Racism has a dynamic which is independent of personal characteristics. It cannot be reduced simply to psychological or economic factors. It is irrational.

That discrimination is largely a product of race and colour, rather than of cultural differences, is demonstrated by the fact that the Canadian-born children of non-white immigrants report experiences of discrimination similar to those faced by their parents, even though they have fully adapted to Canadian customs and expectations. So long as unequal opportunities exist for non-white minorities, a social climate will prevail in which members of those groups will tend to be assessed in terms of stereotypes rather than on the basis of their merit and ability.

The Commission has, of course, had experience with people who seek to hide incompetence or unreliability behind their membership in a minority group. Their complaints can and must be sorted out from the complaints of those who are the victims of discrimination despite their qualifications and merit. The Commission is also well aware that racial discrimination is by no means confined to whites, and that the tendency to judge individuals on the basis of their membership in a racial or cultural group is found everywhere. The Commission has encountered many situations in which members of one minority group are applying discrimination against members of another minority group or against the white majority, and it has not hesitated to take appropriate action in such situations. None the less, it must be acknowledged that in broad terms, it is the members of visible minority groups who are bearing the brunt of racial discrimination in Ontario today.

The Commission believes that Ontario's commitment to human rights and to the dignity of every member of the human family requires that grounds other than those related to race have a proper place in the human rights *Code*, and that it is necessary at this time to add even more. However, it is also essential to increase the ability of the Commission to respond to the urgent racial dimension of human rights in Ontario today.

Two steps are necessary to bring this about. First, more resources are needed. In the words of one brief, and in the spirit of many, "if the Commission is to meet the challenge of multi-racial society and actively promote racial equality and harmony, then more staff must be hired and trained, and more monies budgeted for this vital work."<sup>55</sup>

Second, no matter how many complaints may arise in other areas, the Commission must ensure that adequate attention will always be directed to race-related problems. Towards this end, we recommend that the *Code* be amended to empower the Chairman to establish subdivisions within the Commission, one of which should be focused on

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Brief to the Code Review Committee of  
the Ontario Human Rights Commission  
from the Urban Alliance on Race  
Relations, June, 1976.

complaints involving race, colour, nationality, ancestry, and place of origin.

In any event, the necessary addition of new grounds to the *Code* must not be allowed to deflect the Commission from its important continuing responsibility in the area of race.

### c) Nationality

Nationality for the purposes of the *Ontario Human Rights Code* has been defined by various legal opinions as encompassing citizenship. As one of these legal opinions stated,

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*The term 'citizenship' and 'nationality' refer to the status of the individual in his relationship to the state and are often used synonymously. The word 'nationality' however, has a broader meaning than the word citizenship. Likewise the terms 'citizen' and 'national' are frequently used interchangeably. But here again the latter term is broader in its scope than the former. The term 'citizen', in its general application is applicable only to a person who is endowed with the full political and civil rights in the body politic of the state. The term 'national' includes a 'citizen', and a person, who, though not a citizen, owes permanent allegiance to the state and is entitled to its protection.*

*It is therefore my view that the term 'nationality' as it is found in the Code must ... be deemed to include 'citizenship'.<sup>56</sup>*

The only other provincial human rights act which includes 'nationality' as a prohibited ground of discrimination is that of Saskatchewan. Every other provincial human rights act, as well as the proposed federal human rights act, omits 'nationality' or uses instead, the term 'national origin' which, by legal definition, does not encompass citizenship.

During the course of the public hearings on the review of the *Code*, many briefs argued against the retention of the term nationality. It was felt its inclusion prevented an employer from giving preference to Canadian citizens over those with either landed immigrant status or a work visa. The Commission believes, however, that the *Ontario Human Rights Code* should retain the term 'nationality' as a ground on which discrimination is prohibited.

There are compelling reasons for keeping in the *Code* the prohibition based on nationality. Many incidents underline the need to protect immigrants to Ontario, who are legally entitled to work here by virtue of their landed immigrant status or a work visa, from discrimination in employment, housing, and other fields because of their nationality. This point is illustrated, for example, in the many advertisements for jobs appearing in the newspapers of this province which attached a criterion of 'Canadian experience' and, by inference, Canadian citizenship, to jobs for which this criterion had little or no relevance. Canadian experience or Canadian citizenship was frequently

<sup>56</sup>

Legal Opinion submitted to the Ontario Human Rights Commission by Professor Ian A. Hunter, 13 December, 1972.

being required as a job qualification for such positions as dishwasher, waiter, waitress, and construction worker. The Commission has implemented a special summer programme, employing students to combat this form of discrimination. It has also suggested guidelines to newspapers to assist them in evaluating the legitimacy of proposed advertisements that stipulate Canadian experience. The extent to which this form of discrimination is being directed against recently arrived immigrants, who have not yet been in this country long enough to qualify for Canadian citizenship but who are legally entitled to work, has been usefully documented in a study prepared for the Commission.<sup>57</sup>

The Commission recognizes that Canadian experience may be a legitimate requirement for many jobs in Ontario and that, in some cases, Canadian citizenship may also be an appropriate requirement. For this reason, the Commissioners recommend that the *Code* be amended to include 'nationality' as a ground for which an exemption can be secured if the Commission determines that Canadian citizenship is a bona fide occupational qualification. This amendment would allow, for example, provincial agencies and ministries, schools, professions and universities to apply to the Commission for exemptions from the *Code* in order to be able to give preference in hiring to Canadian citizens if they think there are bona fide reasons for doing so in a specific situation.

The Commission also recommends that affirmative action programs be implemented on the basis of nationality to encourage institutions which have a disproportionate number of non-Canadians on their staffs to seek out, and/or prepare, suitably qualified Canadians in order to redress this imbalance.

#### **d) Creed and Political Belief**

Many of the cultural minorities in Ontario also constitute minorities in terms of their religious beliefs. As many briefs have reminded the Commission, as the number and size of these groups increase it is more important than ever to ensure freedom of religious belief by preventing discrimination on the ground of creed.

"There are various religious communions which enjoin certain observances upon their communicants, requiring abstinence from work on certain days",<sup>58</sup> said one brief. Jews, Seventh Day Adventists, Seventh Day Baptists, members of the Worldwide Church of God, Muslims, and a growing variety of other religious communities in Ontario have their own special days and seasons of religious observance which do not always correspond with what has been traditional practice in the province. This often results in problems at work. "In many instances", another brief stated, "these individuals find themselves being dismissed because of their unwillingness to violate

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Report on "Job Advertising and Canadian Experience" by the Toronto and Area Unit of Project 122 of the Province of Ontario's Experience 76 Summer Employment Program for Students.

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Canadian Jewish Congress, July, 1976.

their conscientious convictions and report for work during the hours of the period observed by them as their Sabbath or holy day.”<sup>59</sup>

In such cases employers will contend that dismissal is not because of creed, but because the employee refuses to work the prescribed hours. But if the work schedule is such that Christians are permitted to observe their Sabbath on Sunday and to observe holy days such as Good Friday, while members of other religious communities do not have the same right to observe their holy days, the effect is that of religious discrimination.

In the United States the incidence of such discrimination on the basis of creed has been somewhat reduced by a regulation of the Equal Employment Opportunity Commission requiring employers to make “reasonable accommodation” to the varying needs of employees unless the employer can show that to do so would occasion “undue hardship” on the conduct of his business.<sup>60</sup> But so far the Ontario Human Rights Commission has preferred to rely on persuasion and education in its approach to employers, and this has usually proven effective. Often it is a question of convincing employers that work need not be disrupted by a flexible schedule which makes adequate allowance for the different practices of employees in this matter of religious observances. Indeed, the Commission’s experience has been that where such schedules have been tried, companies have benefited in terms of morale and productivity. For example, one Ontario employer, working in consultation with the Commission decided to incorporate ‘religious holidays’ into its ‘Compassionate Emergency’ leave arrangements for employees. This policy has helped to alleviate the perennial problem which the Commission encounters concerning time off from work for the religious observances of such groups as the adherents of the World-Wide Church of God. The policy allows formally for a maximum of two days off per year for religious holidays. However, there is provision for discretion under the heading of ‘Compassionate Emergency’ leave, and it is possible that more extensive religious holidays could be accommodated by discretionary granting of the five-day ‘Compassionate/Emergency’ leave.<sup>61</sup>

A variation of the problem of discrimination on religious grounds, involving dress and personal appearance, is becoming more common in Ontario as the province becomes a more cosmopolitan society. For example, during the past three years the Commission has received complaints from members of the Sikh faith who have been unsuccessful in their efforts to find work in such publicly visible jobs as security guards or bus drivers. Often they come up against a company policy which is to hire only people who are clean shaven and who will conform to company uniform requirements. Sikhs are required, as a central part of their religious observance, to wear their turbans and

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Brief to the Code Review Committee of the Ontario Human Rights Commission from D.L. Michaels, Barrister and Solicitor, the Seventh Day Adventist Church in Canada, December, 1976.

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“U.S. Firms must Accommodate Religious Principles of Work”, *Globe and Mail*, 3 November, 1976.

61

Legal Opinion submitted to the Ontario Human Rights Commission by Professor Ian A. Hunter, 9 February, 1976, cites the Ontario Institute for Studies in Education’s arrangement with staff regarding time off for religious observances.



keep their beards. The issue is, should a company be allowed to impose on employees requirements about dress and appearance which effectively exclude all members of a particular religious group from the opportunity of employment with that organization? Conversely, should a company be allowed to require members of a particular religious group to abandon a basic precept of their religious beliefs in order to gain employment? The Commission believes that it is incompatible with the declared public policy of Ontario concerning human rights that individuals should be compelled to choose between their religion and their job.

Members of some religious communities in Ontario have conscientious objections against compulsory membership in unions. As one brief pointed out,

*Certainly they do not wish to 'freeload', and obtain the benefits that union membership often secures for an employee, but they wish that there could be a way for them to do so and to show their appreciation to the union by making a contribution to some charity in the name of the union . . . or to some welfare fund operated by the union in question, and in return for this to be excused from compulsory membership and the payment of ordinary dues while at the same time being permitted to work in the employ of the company or organization represented by the union.<sup>62</sup>*

Under the Ontario Labour Relations Act, charitable donations in amounts equal to any union fees, dues, or other assessments can be made in lieu of paying these dues, if the employee concerned objects to union membership on religious grounds. The problem is that, unlike the corresponding British Columbia legislation, the exemption for religious reasons from paying dues to a union in Ontario "does not apply to employees whose employment commences after the entering into of the collective agreement".<sup>63</sup> The Commission recommends that this section of the Ontario Labour Relations Act be reviewed by the Ministry of Labour, in consultation with appropriate bodies, including the Ontario Federation of Labour to determine whether, and under what circumstances it would be desirable to extend the right to such an exemption from paying union dues on the ground of religious belief to those employees whose employment commenced after a collective agreement was established.

Numerous briefs were submitted to the Commission dealing with the difficulties being experienced by people who oppose abortion, often on the ground of religious belief. It was reported to the Commission that, in one instance, a doctor was appointed to a six-month training program in paediatric gynaecology at a large hospital. "When it was learned she would not do abortions she was no longer considered eligible for the appointment which was then cancelled."<sup>64</sup>

62

Brief to the Code Review Committee of the Ontario Human Rights Commission from D.L. Michaels, Barrister and Solicitor, the Seventh Day Adventist Church in Canada, December, 1976.

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*The Ontario Labour Relations Act*, Revised Statutes of Ontario, 1970, c. 322, s. 39(1).

64

Brief to the Code Review Committee of the Ontario Human Rights Commission from the Right to Life Association of Toronto and Area, September, 1976.

Hospital employees, particularly nurses, whose creed forbids participation in abortion face an agonizing dilemma. On 14 February, 1975, the Executive Director of the Ontario Hospital Association advised member hospitals that "... they assume responsibility for informing employees at the time of hiring, about their possible involvement in certain surgical procedures ... so that staff will have an opportunity to decide whether they wish to start or to continue employment where these procedures are carried out."<sup>65</sup> But when a hospital makes it a condition of employment that a nurse be willing to participate in abortions, it is effectively denying employment on the ground of creed to all nurses whose religious conviction forbids such participation.

Nurses or doctors caught in this situation, who belong to formal religious groups which have an official position opposing abortion, can now file complaints of discrimination on the ground of creed. But many other nurses and doctors, who oppose abortion because of their personal religious beliefs, belong to churches which, recognizing the right of good people to differ on this sensitive issue, have not assumed an official position on the issue. Still others who oppose abortion do not belong to any church group. Many opponents of abortion belong to such organizations as the Right to Life Association, which have a firm position against abortion but do not have a "creed" in the sense of a specific statement "accepted as authoritative by a church."<sup>66</sup> However, *Webster's New Twentieth Century Dictionary*, from which this definition was taken, also defines "creed" simply as "a brief statement of religious belief" without tying it to acceptance by a church.

The Commissioners believe it is time to interpret "creed" as used in the *Code*, according to this wider definition. This will extend the protection of the *Ontario Human Rights Code* to hospital employees who are being required to choose between a deeply-held belief which can be broadly conceived as religious, and their job.

In its third definition of the term, *Webster* defines "creed" as "a statement of belief, principles, or opinion on any subject."<sup>67</sup> Such a broad understanding of "creed" would enable the Commission to accept complaints of discrimination on the grounds of political belief. Ontario does not begin to have the problem found in many other countries where the lack of freedom of political belief is often the most common denial of human rights. Nevertheless, the Commissioners believe that, as a matter of principle and of public education, as well as of assuring the future security of political liberty, the *Ontario Human Rights Code* should extend its protection to freedom from discrimination because of political belief.

Rightly or wrongly, there is at least some public concern that discrimination may now be taking place because of political belief. A number of briefs submitted to the Commission expressed concern that people are being fired even though their job performance has been

<sup>65</sup>

Letter from R. Alan Hay, Executive Director of the Ontario Hospital Association to member hospitals, 14 February, 1975.

<sup>66</sup>

*Webster's New Twentieth Century Dictionary of the English Language*, unabridged, second edition, (New York and Toronto, 1965), p. 428.

<sup>67</sup>

*Ibid.*

satisfactory, or are not being hired even though they are well-qualified, because of their political affiliations. "We must oppose discrimination", said one brief, "on account of any matter that is not pertinent to the job. If a salesman's participation in any party or political view were found to be hindering his service to his employer in the sense that he was talking about politics when he should have been selling cars, I believe his employer would have a legitimate complaint."<sup>68</sup> But if the firing took place on the basis of political opinion, not job performance, then the question is raised whether, as the brief says, "employers are prohibited from discriminating against employees on account of matters that are private in the sense that they do not obtrude into the work for which the person has been hired."

There will, of course, be cases where a particular political belief, or, at least, a willingness to be non-partisan politically, could be a bona fide occupational requirement. Likewise, as long as abortion is a legal medical procedure, a willingness to participate in abortion procedures will be a bona fide occupational requirement for some hospital positions. There may also be job situations where willingness to wear a certain uniform or to work on certain days is a bona fide occupational requirement. But, in a province, committed to freedom from discrimination on the grounds of creed, these ought to be exceptions to a public policy that is clearly enunciated and regularly upheld.

The Commissioners recommend that in future a broader interpretation of the definition of "creed" be used in order to enable the Commission to investigate complaints of discrimination which involve deeply held moral or religious convictions but which are either not the accepted official stance of the complainant's church or involve a complainant who is not a member of a formal religious group or organization. The Commission also recommends that complaints which involve discrimination on the basis of political belief be accepted and investigated under this expanded definition of the term "creed".

### e) Age

"Age" was added to the *Ontario Human Rights Code* as a prohibited ground of discrimination in 1972. Taken from the *Ontario Age Discrimination Act of 1966*, the definition of this term in the *Code* as it now stands is limited to "any age of forty years or more and less than sixty-five years."<sup>69</sup> As this limitation makes clear, age was then included in the *Code* as a prohibited ground of discrimination to protect one particular age group. This was done because many middle-aged workers were not being hired or were being replaced by employers who were seeking younger workers who would be willing to accept low starting wages and who were many years away from retirement and the benefits of a full pension at the company's expense. This section of the *Code* has done much to eliminate discrimination against the group it was meant to protect.

However, the Commission is now receiving a growing number of complaints from people under forty and over sixty-five who encounter

<sup>68</sup>

Brief to the Code Review Committee of the Ontario Human Rights Commission from Alderman Dan Heap, December, 1976.

<sup>69</sup>

*The Ontario Human Rights Code*, Revised Statutes of Ontario, 1970, c. 318 as amended, s. 19(a).

discrimination because of age but who are not protected from discrimination because of their age under the current *Code*.

Much of this discrimination is being directed against youth. For example, one recent job advertisement required that an applicant be "a serious, mature person of twenty-three years or over." The point was well made in a brief to the Commission in which a young woman described her experience, and that of a friend, in seeking employment. They had often been told by employers over the telephone that advertised jobs were still available. But, when these two young people appeared in person, they would be told that the jobs had been filled.

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*It may be because we are just newly graduated students. I am nineteen years of age. My friend is twenty. She has been out of work since June, 1975. I've been out of work since January, 1976. I have made forty to fifty applications around the city and am still unemployed . . . I feel that it is unfair for two career minded people to be treated the way we are.*<sup>70</sup>

As the Canadian Labour Congress has observed:

*The fourteen-nineteen age group in Ontario has had, since the 1950's, unemployment rates that were approximately two and one half times the overall Ontario rate. The ratio of the unemployment rate of those twenty to twenty-four to the Ontario rate has ranged from 1.2 to 1.5 . . . the fact that some employers seek employees over twenty-five or a "mature person" does lessen the job opportunities for youth by discrimination.*<sup>71</sup>

Unemployment among Ontario youth has not dropped below 7.8 per cent in the last six years, and for the past two years it has been more than 11 per cent. In 1976, young people between fifteen and twenty-four years of age represented 25 per cent of the Ontario labour force, and 45 per cent of the unemployed. Indeed, over the 1971-1976 period the youth unemployment rate in this province has been consistently almost twice as high as unemployment in the labour force as a whole.

Similarly, students and other young people often experience difficulty in renting apartments. They are rejected by many landlords not because, individually, they would be unreliable as tenants, but simply because they are students or young. Consequently, many students and other young people are forced to take accommodation that does not meet reasonable standards for health and safety. Others are forced to pay unreasonably high rents in order to obtain acceptable accommodation.

Many briefs also drew attention to the need to protect people over the age of sixty-five from discrimination because of their age and called for a broadening of the definition of age in the *Code* to achieve this purpose. Sixty-five appears to have been picked out for official recognition as the appropriate year for retirement, initially, by Chancellor Bismarck, when he introduced the first old age pension law

70

Brief to the Code Review Committee of the Ontario Human Rights Commission from Jan Coleman and Louise Szumny, September, 1976.

71

Brief to the Code Review Committee of the Ontario Human Rights Commission from the Canadian Labour Congress, September, 1976.



in Germany in the last century. Apparently the Iron Chancellor assumed that not many would reach that age. But the world has changed since then:

*The population aged 75 and over has increased nearly six times since 1901 and the estimates are that the present number will increase two and a half times by 1991.*<sup>72</sup>

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*If present trends persist, a minority of younger people will support a majority of senior citizens and children, and in consequence the cost of the kinds of programs now in existence will skyrocket. This cost will be counted not only in dollars, but, even more important, in harder to measure human terms: wasted resources, frustrations, useless and unwanted leisure years.*<sup>73</sup>

Older people, like the young, face many threats to their human rights in a society designed largely for the convenience of middle-aged people. But the human rights issue that was raised most frequently in the briefs concerning age was the question of mandatory retirement at age sixty-five.

The Canadian Labour Congress, which opposes such a requirement, has found support for its views in a recent study by the Canadian Council on Social Development:

*In discussions with groups in all the provinces visited the point was made again and again by participants that the over 65's are not a composite lump with a single set of characteristics and therefore open to a single policy, but 1.7 million individuals with a wide variety of aspirations and needs. While many did want to retire, a proportion greatly desired to continue work after 65 and should not be denied the opportunity to do so.*<sup>74</sup>

Similarly, Dr. Gustave Gingras, the President of the Canadian Human Rights Foundation, who is an internationally-recognized authority on the problems of aging, has urged that,

*The decision to stop working should be a matter of to each his own. Today there is no scientific, social or gerontological basis for selecting 65. Chronological age is not synonymous with biological age. Age should be measured by achievements, not birthdays.*<sup>75</sup>

While many, perhaps most, look forward to retirement at age sixty-five, there are many others who view it as enforced unemployment, with all the loss of dignity, morale, and income which that implies. A person's ability to work can become impaired at any age. There is no

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Canadian Human Rights Foundation, April, 1976.

73

Rabbi W. Gunther Plaut, "Let the Elderly try lobby tactics", *Globe and Mail*, 26 January, 1977.

74

Joan C. Brown, *How Much Choice? Retirement Policies in Canada*, Canadian Council on Social Development, (Ottawa, 1975), p. 43.

75

Dr. Gustave Gingras, "Decision to stop work should be a personal choice", *Montreal Star*, August, 1976.

evidence that people automatically become less effective on their sixty-fifth birthday. Disabilities do not suddenly appear on the first day of a person's 65th year that were not there on the last day of their 64th. According to the Ontario Advisory Council on Senior Citizens,

*There is no strict correlation between any person's functional ability and his age and . . . an arbitrary rule which fails to account for individual differences is inherently inequitable . . .*

*The choice of when to work and when to retire should be left in the individual's hands . . .*

*Instead of compulsory retirement date, the retirement date would be flexible, and all the factors influencing a person's decision to retire would help the individual choose when and if to retire. The employer of course would retain the right to terminate employment for cause.<sup>76</sup>*

Pension plans could still be pegged to age sixty-five. People who wish to continue working beyond that age could make individual arrangements with their employers. Or plans could be worked out that are not tied to an arbitrary retirement age.

The Commissioners recognize that in some circumstances age may be a legitimate occupational requirement. We therefore recommend that the proposed new *Code* include provision for the possibility of exemptions to be dealt with on a case by case basis, each case on its own merits. Ability to perform the job in question should be the criterion, rather than any general judgment that all people over or under a certain age lack that ability.

*The systematic firing of people when they reach 60 or 65 could hardly be justified even if economic dislocation would result from ending it. But the economic advantage may be quite the other way. The Economic Council of Canada has argued that growth may slow in the 1980's because the labour force will be growing much less rapidly. So far the argument on this has centred on the question of how many immigrants Canada should admit. But the people who are fired at an arbitrary age constitute a skilled, specialized labour force already here. Not all want to continue working, of course . . . But if a person's retirement age were set by his own inclination and performance, the chances are that a good many would continue working to their own and the economy's advantage.<sup>77</sup>*

The Commission, therefore, recommends that age be a prohibited ground of discrimination in all sections of the *Ontario Human Rights Code* and that its definition be expanded to encompass all persons eighteen years of age and over.

The Commission has in the past adopted a policy of accepting complaints of discrimination both from and on behalf of individuals

76

Brief to the Code Review Committee of the Ontario Human Rights Commission from the Ontario Advisory Council on Senior Citizens, September, 1976.

77

Don McGillvary, "Discrimination in Rights Bill", *Hamilton Spectator*, 11 December, 1976.

who are less than eighteen years of age. Cases in which children or young adults in this age group have suffered discrimination because of their race, creed, colour, sex, marital status, nationality, ancestry and place of origin arise frequently. While the Commission's policy has operated reasonably well so far, there is no specific authorization for it in the *Code* as it now stands. The Commission therefore recommends that the definition of the term "person" as used in the *Code* be broadened so that pursuant to subsections 15(1) and 15(2) of the proposed new *Code*, which deal with the laying of complaints, it encompasses any individual regardless of age. Support for this recommendation comes both from a number of the briefs received by the Commission, and from its own experience.

A number of other briefs to the Commission pointed to related issues which, although not within the Commission's mandate, require urgent attention. Children do not at present have the right to legal representation in their own interests in the course of divorce or separation proceedings. As one brief pointed out,

*The basic problem seems to be that no one speaks for the children, and the interests of children may differ from those of their parents.*

*We feel that children, regardless of their age are persons in their own right, and that the children's interests, wishes and opinions, should be heard in court, and they should be represented in court by their own counsel.*<sup>78</sup>

Another brief argued that,

*Children should have the same right to protection from assault as is enjoyed by adult members of the community. Such protection does not exist in Ontario (or in other parts of Canada) because section 43 of the Criminal Code allows in effect, assaults upon children by school teachers, parents or persons standing in loco parentis, for the purpose of 'correction' providing the force used against the child is 'reasonable'.*<sup>79</sup>

The Commission recommends that the Attorney-General's department give these questions careful consideration and also that it initiate discussions with the federal government to revise, aimed at eliminating such discriminatory provisions from the Criminal Code.

#### **f) Sex**

Many women and women's organizations presented briefs to the Commission and participated actively in its public hearings. One of

78

Brief to the Code Review Committee of the Ontario Human Rights Commission, from The Society for Single Fathers, September, 1976.

79

Brief to the Code Review Committee of the Ontario Human Rights Commission from Corinne Robertshaw, Barrister and Solicitor, Volunteer Worker for the Children's Aid Society of Ottawa, June, 1976.

these briefs, received from the Women's Bureau of the Ontario Ministry of Labour, pointed out that,

*Between 1964 and 1974 the number of working women in Ontario increased from 776,000 to 1,319,000 — an increase of 70%. Women now constitute 36% of the labour force while they constituted 30% of the labour force ten years earlier. Yet the representation of women in a broad spectrum of occupations has not kept pace with the overall increase in the female work force.<sup>80</sup>*

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As this brief went on to point out, women make up a very small percentage of such professional groups as engineers, architects, managers, high school principals or university professors, but are proportionately over-represented in the lower-paid occupations, such as those in the clerical and services fields.

Many sex stereotyping problems are created, reinforced and institutionalized within our school system. Although some improvements have been brought about in recent years, sex stereotyping in the educational system still represents a formidable barrier to developing an awareness among young men and women that their opportunities for employment need not be, and should not be, limited to traditional male and female occupations. Such stereotyping of occupations in terms of sex is a disservice to both men and women as well as to society as a whole. As one brief emphasized,

*The most direct route, indeed perhaps the only route to a lasting, durable, egalitarian society in Ontario is through education. The social conscience of a society, their outlook attitudes, opinions and personalities, are culled, in youth, from the knowledge which they absorb from the world around them. More important still is the subliminal unspoken social dye dissolved invisibly within that knowledge.<sup>81</sup>*

The educational system of the province still perpetuates in many ways the notion that because a person is a male or a female it is inappropriate for him or her to pursue certain opportunities in life. When so much of the school program still conveys the message "Dick does; Jane watches" and "Dick laughs; Jane cries", then the result will continue to be a belief that "Dick can; Jane can't". Textbooks, guidance materials, career counselling, teachers' attitudes and course content are still replete with sex stereotyping, both blatant and subtle, which shape students' attitudes and restrict their opportunities.

The educational system frequently causes students to associate particular roles and careers with one sex or the other. One unfortunate consequence of this is that some young people are discouraged from pursuing a goal or career of interest to them, because they have been conditioned to identify it with the opposite sex.

Teachers have a particularly important role to play in eliminating sex stereotyping in schools. Well planned courses and seminars

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Women's Bureau, the Ontario Ministry of Labour, May, 1976.

81

Brief to the Code Review Committee of the Ontario Human Rights Commission from Bruce Ward et. al., May, 1976.



designed to help teachers to identify these problems and to deal with them can assist them to play this role effectively. The Ontario Human Rights Commission, the Women's Bureau of Ministry of Labour, the Ontario Advisory Council on the Status of Women, and others, are able and willing to assist with teacher training and professional development programs in this area. In addition, a closer and more constant liaison between these groups and the Curriculum Development Branch of the Ministry of Education is needed to ensure that textbooks and other learning and guidance materials do not reflect sex-based biases which are not valid.

Beyond the educational system itself, greater sensitivity to the employment aspirations and abilities of women as well as men must be encouraged. Many personnel officers in government, business and industry would benefit from courses and seminars which brought home to them the frequently unfulfilled potential of women employees. While significant strides in the area of women's rights have been made, the Women's Bureau and the Ontario Human Rights Commission have lacked the funds to mount effective public education and affirmative action programs aimed at redressing entrenched and institutionalized discrimination of this nature.

A further concern raised by many groups and individuals in their submissions to the Commission is the widespread practice of firing one employee, usually the wife, when two employees working for the same organization marry. Similarly, briefs also criticized the practice of refusing to hire a person because he or she is married to or associated with someone who belongs to a group or class of persons protected from discrimination under the Code. To deal with these situations, the Commission has recommended earlier in this report that a section be added to the *Code* aimed at preventing discrimination against an individual because of his or her association with someone else. Other comments and recommendations in the subsequent section of the report, dealing with marital and family relationship, are also addressed to these problems.

One of the chief underlying principles of the *Ontario Human Rights Code* is employment on the basis of merit. The employer has every right to hire the best qualified person for the job. The Commission recognizes that there are areas of employment in which there may exist legitimate reasons for not hiring a person's spouse or another relation. This might be the case, for example, in smaller companies in which the person and his or her spouse would be in an employer-supervisor relationship. Accordingly, the Commission recommends that it be empowered to grant exemptions in such cases when it has determined that there are bona fide reasons for doing so.

The Commissioners have also recommended earlier in this report that the section of the *Ontario Human Rights Code* relating to services and facilities no longer be tied to a particular "place". This change would allow the Commission to investigate complaints of discrimination in such areas as access to credit for women and other groups. The *Code*, as a piece of provincial legislation, would not apply to financial institutions under federal jurisdiction. But it would cover many other institutions and organizations such as some finance companies which at present refuse to offer credit or loans to women solely because they are women, rather than because of any objective appraisal of their financial position.

The Commission has encountered many cases of sex discrimination

based on height and weight requirements which are unrelated to a person's ability to perform a particular duty. These requirements often prevent people, usually women, from being considered for jobs for which they may be perfectly well qualified. To meet this problem the Commissioners, in a subsequent section of this report, have recommended that the term physical disability, as used in the proposed new *Code*, be defined in such a way as to allow the Commission to investigate complaints of this nature.

Noting the many occupations and professions in which traditional institutionalized discrimination against women exists, the Commissioners have recommended that the Ontario Human Rights Commission be empowered to "recommend" as well as to "approve" programs of affirmative action to correct historical disadvantages faced by particular groups or classes of persons. One example of this problem, which has become increasingly apparent in recent months, is the difficulty which many well-qualified women academics face in obtaining permanent positions or appointments within the province's universities.

### **g) Marital and Family Relationship**

At present "marital status" is not a ground on which discrimination is prohibited in the housing sections of the *Ontario Human Rights Code*. As a result, it is possible legally for landlords to deny housing accommodation to individuals on the grounds that they are single, widowed, divorced or separated. This has caused dismay, frustration and often severe hardship to many people. As one brief indicated,

*It has been my experience in recent weeks to be refused accommodation in a town house and garden home because of my marital status.*

*I am a single female, twenty-three years of age, earning \$11,500 a year as a Community Centre Director . . . I have a degree in Recreation . . .*

*I would consider myself a mature, responsible and capable young adult and I feel I have been unjustly discriminated against.<sup>82</sup>*

Complaints of this nature have been received by the Commission with increasing frequency since its inception in 1962 and they are now received almost daily. In order to address this problem more effectively, the Commissioners recommend that "marital status" be included as a prohibited ground for discrimination in the housing sections of the *Ontario Human Rights Code*.

The Commission believes that landlords should have the right to determine whether or not applicants would make suitable tenants in terms of their ability to pay the rent. But landlords should not be allowed to refuse to rent to people solely because of their marital status.

<sup>82</sup>

Brief to the Code Review Committee of the Ontario Human Rights Commission from Lynne Wood and Jean Jones, April, 1976.

Another related area of concern which was frequently raised in the briefs and at the public hearings was the question of discrimination against families with children. This problem, which has become more acute during the current period of slow housing starts and scarcity of rental accommodation, is more serious in some communities than in others.

A few municipalities, including the City of Toronto, have taken some steps to remedy this situation by adopting municipal by-laws relating to undue discrimination against families with children. Towards the same end, they have also restricted permits for the construction or conversion of "adults only" apartment buildings. These steps have been taken to deal with a specific social problem. The intention has not been to infringe unnecessarily on the right of individuals to live and associate with whom they wish. Some individuals, for example, wish to live only with people of their own general age group or prefer to live without children around them.

The crucial question, however, is whether or not enough suitable housing accommodation for families with children is available within a particular area or community. If the answer is "no", then "adults only" policies which discriminate against families with children should not be allowed.

To meet these problems, the Commission recommends that "family relationship" be added to the *Ontario Human Rights Code* as a ground on which discrimination is prohibited.

The Commission also recommends that an exempting provision be included in the *Code* to allow bona fide restrictions on housing for senior citizens buildings, nursing homes, hostels and in other dwellings where family relationship may be a legitimate consideration. Such exemption requests should be dealt with individually, each on its own merits. The Commissioners recommend further, that a provision be included in the revised *Code* enabling the Ontario Human Rights Commission to recommend or approve affirmative action programs designed to increase the availability of housing to various historically disadvantaged groups including, for example, families with children, the aged, the physically disabled, and the Native peoples.

The proposed redefinition of public services contained in the revised *Code* would allow the Commission to investigate complaints of discrimination arising from the denial of public services, or from unequal treatment in the dispensing of public services, on the grounds of marital status or family relationship. For example, single parent families with a male head often find that they receive different treatment from that received by single parent families with a female head, particularly in the administration of social services.

#### **h) Physical Disability**

No other group was mentioned as often in the briefs received by the Commission as the physically disabled. Similarly, at every one of the public hearings vigorous, sometimes angry, often moving, presentations were made by people with physical disabilities and by others who felt that the needs and human rights of the physically disabled were far from being respected. As one brief pointed out,

*Television has taught our society that the appearance of products is at least as important as the contents. Sometimes, what is inside a package gets forgotten and the attractiveness of the outside takes over in our minds.*

*Such commercialized thinking has led to a very unfortunate corollary: that is, people get treated in the same fashion. Too often, we judge people by their appearance and their packaging, rather than their contents, or what their hearts and minds may contain. We may never get past the clothing, the long hair, or the skin colour, and, as a result, we may never know the person inside.*

*Such a state of mind within a society works to the obvious disadvantage of physically handicapped people. Members of the 'able-bodied' society may never get past the disfigurement, the muscular dis-coordination, the missing limb, the scars or other physical problems, and therefore, the voices of the physically handicapped may never be heard, nor their ideas, concerns and personal aspirations.<sup>83</sup>*

For years, many of the people who are physically disabled in one way or another have been segregated from the rest of society in special schools or in institutions where they could be "protected" and kept out of sight. However well-intentioned this practice may have been, the result has often been a denial of the human rights of disabled people, and the loss to society of the contributions these people could have made.

It was made abundantly clear in the Commission's public hearings that physically disabled people are not prepared to be kept apart or to remain confined any longer. They wish to be active members of society and to have their rightful opportunity to contribute to it. Unfortunately, they often find that our communities have not been designed with their needs in mind. They find, for example, that they are prevented from entering many public buildings, including city halls, libraries, schools, hospitals, universities and government offices, not by their disability itself, but by the thoughtlessness of others who have designed or approved buildings that contain barriers like steps and curbs despite the problems these create for many people with physical disabilities.

Common to all the presentations by the disabled was the implication that they did not want condescension; they just wanted a chance to participate in the life of our society to the extent of their abilities without having to face unnecessary obstacles.

The needs of the elderly and of those whose physical disability may not be visible, for example people with heart or lung problems, need to be taken into account, as well as the needs of those with more visible physical disabilities, when our communities are designed and our laws are shaped.

Estimates of the number of physically disabled people range from 7.5 per cent to 15 per cent of the total population of Canada, depending on the definition used. A group in Kingston calls itself "The World of One In Seven", reflecting a widely accepted estimate that one out of every seven people must cope with a physical limitation of some

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Blind Organization of Ontario with Self-Help Tactics (B.O.O.S.T.), July, 1976.



kind. Estimates of the numbers of physically disabled people in Canada may vary, but what is not disputed is that those with such disabilities suffer discrimination frequently and repeatedly.

*It is estimated that 2.75% of persons of labour force age are employable handicapped, but only half of these are employed. In 1973, the number of employable handicapped in Toronto numbered 35,000. Of an estimated 45,000 paraplegics in Canada, 90% are unemployed, yet 33% are employable.<sup>84</sup>*

The Commission encountered many examples of discrimination against the physically disabled both by individuals and by Society in general:

- an adult with cerebral palsy not being served at a bar;*
- a person with epilepsy having to change jobs 16 times as employers discovered he had epilepsy;*
- a disabled person refused life insurance;*
- the treatment of adults in wheelchairs as if they were children;*
- inaccessible public transportation;*
- lack of accessibility to public accommodation services and facilities;*
- most sidewalks are not ramped for wheelchair travel or persons with ambulatory problems;*
- many high schools and university buildings are not accessible to disabled persons.<sup>85</sup>*

The Commission noted, in the course of its public hearings, that a certain amount of progress is being made by some municipalities towards making the life of their community more accessible to the disabled. Sidewalks are being ramped, telephone booths are being widened, the telephones in them are being lowered, elevators and escalators are being made more accessible. But much remains to be done. In one community, the Commission's public hearing was held in the city's council chamber, and the mayor and others helped carry many disabled people up steep stairs to the meeting. In another, a man in a wheelchair showed slides he had taken of ramps at one Ontario university which were so badly designed that they were impossible to climb and dangerous to descend. *The Ontario Building Code* now requires that new buildings be designed to accommodate wheelchairs. But because multiple housing under three stories is exempted, much accommodation still remains inaccessible to the physically disabled.

*Supplement Number Five of the National Building Code*, produced by the National Research Council, makes recommendations, with the needs of the physically disabled in mind, about the construction of sidewalks, ramps, hallways, parking lots, elevators, switches, water fountains, and telephone and electrical outlets.<sup>86</sup> It is an advisory document with no legal standing unless and until it is adopted by the relevant provincial or municipal governments. The Commission recommends that the proposals contained in this document be carefully considered by the provincial government and by municipal governments in Ontario, and that it be adopted as a part of the building standards required by each of these levels of government.

Many of the problems of access faced by the physically disabled can be addressed effectively through changes in by-laws and building standards and by the introduction of architectural barrier legislation. But because the lack of proper facilities for the disabled is in part the result of discrimination against them, the Commissioners recommend that the *Ontario Human Rights Code* include explicit reference to the right of access to the community's facilities for people who are physically disabled. Not only new buildings but existing ones as well, including churches, theatres, libraries, arenas, pools, courtrooms, and museums, should be made accessible to the disabled, within a reasonable period of time in conformity with a proper building code.

Some provincial human rights codes and the proposed federal legislation do include physical disability among their prohibited grounds for discrimination but only in the area of employment. The Ontario Human Rights Commission recommends that physical disability be included as a prohibited ground of discrimination in each of the areas covered by the proposed new *Code*. This would allow the physically disabled to lay complaints in the areas of housing, and of public services and facilities, as well as of employment.

The technology exists to make public transportation accessible to the physically disabled, but we in this province have not given that task a high enough priority. However, commendable pilot transportation projects for the disabled have been initiated in several communities, including Toronto, Peterborough, Sault Ste. Marie, Ottawa, and Chatham. The cost of private transportation services for people in wheelchairs average about ten dollars a roundtrip, so that a person who works 240 days in a year could spend as much as \$2,400 for transportation alone. Federal law in the United States requires that all federally funded buildings be accessible to the disabled. In 1970, a special order applied this law to the new subway system of the city of Washington. Design and structural changes required by the law increased the total cost of the subway by approximately 10% — about equal to the proportion of disabled people in the population.<sup>87</sup> Special transportation is better than nothing. But a great many physically disabled people would like to be able to make use of regular transportation facilities — of buses, trains and subways — like anyone else, and it should usually be possible for them to do so. The

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"Building Standards for the Handicapped", Supplement No. 5, *National Building Code*, National Research Council, 1970.

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"... this city is for all its citizens ...", *The Mayor's Task Force Report Re Disabled and Elderly*, (Toronto 1973), p. 23.

Commission believes that provincial and municipal governments can and should provide transportation which is accessible to all.

The Commission believes that students with physical disabilities should be brought into the regular school system to the fullest possible extent. While there will always be a need for special schools and classrooms, they should be used sparingly and students should be referred to them only when it is clearly desirable for them to have the special services and facilities which they provide. Special schools and classrooms have disadvantages for the physically disabled as well as advantages. They can create negative patterns of dependence and isolation which, on the one hand, lead to demoralization among the physically disabled, and, on the other hand, deny to other students the opportunity of coming to know and to understand better the problems and achievements of the physically disabled.

In addition to the design barriers which they face at most Ontario schools and universities, disabled people face another kind of discrimination in post-secondary education.

*The non-handicapped have only to meet educational standards of the institutions they seek to enter; the handicapped person has to satisfy the Ontario Ministry of Community and Social Services that he or she is post-secondary material. The handicapped must undergo an assessment by officials of that Ministry so that they, rather than the educational authorities, can determine if the student is university or college material, before he or she can receive financial assistance under the Vocation Rehabilitation Services Act.<sup>88</sup>*

There is no reason for physically disabled students to be subject to this academic double jeopardy.

The Commission recommends the abolition of practices which now require physically disabled people, who have already met the entrance requirement of Ontario's universities and colleges, to satisfy, as well, the Ontario Ministry of Community and Social Services that they are qualified to enter upon post-secondary education.

Very few other minorities suffer as much discrimination in employment as the physically disabled. While some jobs may be beyond their individual capacity, as is true of anyone, disabled people are constantly being denied the opportunity even to try for jobs that are within their competence. What they are asking for is not a job because they are disabled, but a job because they can do it.

*Old prejudices and a great deal of ignorance remain; the feeling lingers that the handicapped belong in sheltered workshops, tucked away out of sight, packaging Christmas presents and sorting nuts and bolts. All of those Hire-the-Handicapped campaigns, however well intentioned they may have been, have done little to alleviate the situation possibly because they were saying, in effect, 'Do the cripple a favor.'<sup>89</sup>*

Many of the participants in the "Task Force on the Disabled and the Elderly" appointed by the Mayor of Toronto, presented briefs to the Commission, and the Commission received much helpful assistance

from its co-chairman Mr. Gerald Clarke, the executive officer of the Ontario Advisory Council on the Physically Handicapped. One recommendation of the Task Force was that "all disabled people, no matter what the cause of their disability, be given the same opportunities and resources as those received by claimants who are protected under the Workmen's Compensation Board." The Ontario Human Rights Commission supports this recommendation.

*Actual case: young man, single, no dependents breaks neck, becomes a paraplegic; gets full WCB disability pension, about \$5,300 minimum per year guaranteed for rest of life; once he's able he's enrolled at Community College, takes drafting course; once finished the WCB finds him a job with firm of architects, building won't take wheelchair, so WCB pays for remodelling — including the building of a special washroom — so he has full access; starts at \$150. a week and retains full pension.*

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*Nobody's going to suggest the man was lucky; nobody who breaks his back and who must live his life in a wheelchair is lucky. But relative to many other handicapped people, he is lucky in the sense that he happened to get hurt, or suffer his disability, while under the protection of the WCB. Everybody, it seems to us, deserves similar protection; it shouldn't matter whether they get hurt at home or on the streets, or if their disability comes from disease, or congenital defect. But that just isn't the case.*

*If that same single young man, the draftsman, had been injured playing touch football and left in the same situation, his situation would have been entirely different.*

*Instead of having a \$5,300 a year pension and somebody like the WCB re-training him for a new job and, in fact, finding him a job and making the premises accessible, he would probably end up on a maximum of \$2,200 a year Disabled Person's Allowance (D.P.A.) under the Family Benefits Act administered by the Ontario Ministry of Community and Social Services. With some luck he would get into a rehabilitation program sponsored by the Vocation Rehabilitation Services Branch of this same Ministry, get the proper counselling, be educated or re-trained and pointed toward a job ...*

*The other scandalous inequity occurs when the person on Disabled Persons Allowance does manage to find work, be it part-time or full-time. While the person on WCB benefits gets full pension, the person on D.P.A. can only earn an extra \$50 a month before he starts losing his pension. For every dollar he makes over \$50 a month he loses 75 cents of pension.<sup>90</sup>*

Support for the inclusion of physical disability in the *Ontario Human Rights Code* as a specific ground on which discrimination is prohibited came not only from the physically disabled, but also from many other individuals and organizations throughout the province, including



labour, church groups, women's groups, the visible minority community, local human rights councils, and 'gay liberation' groups.

Earlier in this section, the Commission has recommended that physical disability be included as a prohibited ground of discrimination in each of the social areas covered by the *Code*. We also recommend that provision be made in the *Code* for exemptions to be granted, on a case by case basis, in situations where certain physical abilities may be bona fide requirements. We further recommend that a section be included in the *Code* to permit an employer, during the oral part of the employment interview to raise questions regarding the extent of an applicant's disability and its possible effect upon his or her ability to do the job. We also recommend that the Commission be empowered to recommend or approve special plans or programs for the disabled in every social area covered by the *Code* in order to help to correct the historical disadvantages which they have faced.

At every point in its examination of the human rights problems of the physically disabled, the Commission consulted widely with the disabled themselves. In particular, the Commission sought such advice in order to avoid unhelpful and negative terminology, and so as to reach effective and acceptable definitions. On the basis of this advice, the Commission has adopted the term 'physical disability' for its working purposes and for inclusion in the new *Code*, rather than employing such terms as 'physical handicap', 'malformation', and 'disfigurement', which are used in human rights legislation in some other jurisdictions.

The Commission recommends that for the purposes of this *Act*, the 'physical disability' be defined as meaning:

*A determinable medical characteristic of an individual, including the history of such a medical characteristic, which may result from disease, injury, congenital condition of birth or functional disorder and which is unrelated to the individual's ability to perform the duties of a particular job or employment, or to live in a particular housing accommodation, or to enjoy the benefits of a particular public service or facility.*

As noted in the preceding section of this report dealing with 'sex', this definition will enable the Commission to deal with discrimination on the basis of height or weight in situations where these characteristics have no immediate relation to the job, and also with discrimination based on invisible physical disabilities such as controlled conditions of epilepsy and diabetes.

A further problem in this area which was frequently pointed out to the Commission relates to the difficulties which physically disabled individuals face in securing funds for the apparatus which is required to enable them to function despite their disability, such as wheel chairs and hearing aids. These items, which are often sophisticated and expensive, can make all the difference in a physically disabled person's ability to function in the community. Briefs urged the Commission to point out the need for provincial programs to facilitate and subsidize the purchase, replacement or repair of such apparatus, particularly in the more remote parts of the province, where the time required to repair a \$1,500 chair often forces a disabled person to be inactive or bed-ridden for weeks at a time.

As a physically disabled person at the public hearing held in Kenora pointed out,

*When my wheelchair needs to be repaired, it is gone for as long as six weeks because the nearest repair shop is in Winnipeg. During the time I am without it, I am confined to my bed or to the couch in the living room. I am unable to make my husband's meals and I cannot go to my place of employment. No replacement chair is available because I can't afford it . . .*<sup>91</sup>

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The Commission suggests that the Ministries of Health and of Community and Social Services examine this area of need and take action to correct the problems involved.

One other area which was raised by the physically disabled and by others relates to section 23 of *The Employment Standards Act*, which states,

*For the purposes of enabling a handicapped person to be gainfully employed, the Director may, upon the application of the handicapped person or his employer and with the consent and advice of the handicapped person, his parent or guardian, authorize the employment of such handicapped person at a wage lower than the minimum wage prescribed under a regulation.*<sup>92</sup>

Many briefs pointed out that this regulation could be used by employers to exploit handicapped individuals. Although the intent of this section may have been to expand employment opportunities for physically disabled persons, it has sometimes been abused. The Commission recommends that this section of *The Employment Standards Act* be revised so that it does not conflict with the proposed amendments to the *Ontario Human Rights Code* regarding the employment of the disabled and the establishment of affirmative action programs.

The last word in this section on the human rights of the physically disabled can well be left to Sondra Diamond, a paraplegic and psychologist. Her words were quoted in a presentation made to the Commission in Thunder Bay:

*The universality of man is such that all people are not created physically equal, but are created equal in their needs to live a full and meaningful life and in their right to pursue it.*<sup>93</sup>

### **i) Criminal Record**

Eight out of every ten inmates in Ontario prisons are repeat offenders. This point was made repeatedly in the oral presentations and in the written briefs and submissions which the Commission received during

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<sup>91</sup> Observations by a member of The Physically Handicapped Action Group at a public hearing held in Kenora, 8 July, 1976.

<sup>92</sup> *The Employment Standards Act*, Revised Statutes of Ontario, c. 147, s. 23.

<sup>93</sup> Brief to the Code Review Committee of the Ontario Human Rights Commission from the Lakehead Social Planning Committee's Rehabilitation Committee and the Handicapped Action Group Incorporated of Thunder Bay.

the course of its review. According to one brief, from the London and District Labour Council:

*One of the main factors behind this high total, we believe, is society's attitude toward the ex-offender.*

*When an individual leaves an institution, whether on parole or at the expiration of his sentence, he has paid his debt to society. We feel it to be totally unjust and criminal to expect that individual to make payments towards a debt that should be marked 'paid in full'.*

*... Failure to adopt a more understanding attitude towards the ex-offender will result in a continued high recidivism rate and will rob our communities of potentially productive members.<sup>94</sup>*

In Ontario, it is possible at present to discriminate legally against a person because of his or her criminal record without regard to the nature of the crime, to its severity, to whether or not it was a repeated offence, or to the age of the person at the time it was committed. In fact, this is a widespread form of discrimination.

Many companies use employment application forms which ask the question: "Do you have a past criminal record? Answer, Yes or No." If the question is answered in the affirmative, the application is often automatically rejected, and the applicant is given no opportunity to explain in an interview the circumstances and background surrounding his or her record. No further consideration is given to the qualifications and experience of the individual or to whether or not this past offence would affect in any way the applicant's ability to perform the duties required. The Commission has encountered examples of individuals who committed a minor offence years ago, often as young teenagers, who still face discrimination and repeated rejections in employment because of that criminal record, even though it has not been repeated.

There is no desire on the part of the Commission to deny the right of employers to know the background of employees or of job applicants in order to determine their suitability for a particular position, particularly when that position is a sensitive and responsible one. However, the Commission believes that this background should be explored during an interview, not on the application form, and that it should be assessed fairly in terms of the individual's overall record and current ability to perform the job.

The Commission, therefore, recommends that "criminal record" be added to the *Ontario Human Rights Code* as a ground on which discrimination is prohibited, with provision for exemptions to be granted in cases where, in the Commission's view, criminal record may be a valid consideration.

The Commission also recommends that a special provision be added to the *Code* to allow employers during the course of an employment interview to raise oral questions about a person's past criminal record

in order to understand the nature of the offence and whether it will affect a person's ability to perform the duties of the job being considered.

As it has proposed with other grounds, the Commission recommends that it be enabled to recommend or approve programs to correct the historical disadvantages which people with past criminal records face in securing employment.

### j) Sexual Orientation

During the course of its review, the Commission received numerous briefs and submissions both from homosexual individuals and groups and from many others which argued that "sexual orientation" should be included in the *Ontario Human Rights Code* as a ground on which discrimination is prohibited. At present, homosexuals do not receive the same protection under the *Code* that is extended to their fellow citizens. In Ontario, as things now stand, a person can legally be refused a job, fired, denied public services, and denied or evicted from housing accommodation on the ground of homosexuality alone.

Although the Human Rights Commission has often acted informally on complaints of discrimination from homosexual men and women, it has no formal legal authority, to protect them from discrimination arising from their sexual orientation, even though such discrimination is often vicious and blatant. It has been argued in some cases involving homosexuals that "sex", which is a ground on which discrimination is now prohibited in the *Code* encompasses a person's "sexual orientation" as well as their gender. But legal opinions obtained by the Commission from the office of the Attorney-General, from the Commission's own legal counsel, and from other legal experts in the private sector, indicate that the term "sex", as it is used in the present *Code* means only gender and that it cannot be construed so as to cover a person's sexual orientation or preference. These legal opinions were confirmed by a recent judicial decision in Saskatchewan in which it was held that "sex" means gender only. Consequently, it was held that the Saskatchewan Human Rights Commission lacked jurisdiction to deal with a complaint arising from discrimination based on "sexual orientation".<sup>95</sup>

As yet, no human rights legislation in Canada protects homosexuals from discrimination based on their "sexual orientation". However, the Human Rights Commission in British Columbia has recently handled a formal complaint involving sexual orientation on the grounds that the legislation which it administers, unlike any other human rights legislation in Canada, prohibits discrimination "without reasonable cause". In this instance, the complaint filed under this provision by the *Body Politic*, a homosexual newspaper, against the *Vancouver Sun* because the *Sun* refused to print an advertisement submitted to it by the *Body Politic*. The decision in this case, which held that the *Vancouver Sun* must accept the advertisement submitted to it by the *Body Politic*, is currently under appeal.

Because they are not protected from discrimination on the grounds of their sexual orientation, many people in Ontario who are homosexuals live in constant fear that they may lose their jobs, their



living accommodation, and other basic necessities, if their sexual orientation becomes known. As things now stand, this can and often does happen despite the fact that the individuals concerned may be exemplary employees or tenants. They are being discriminated against because of something which is a part of their private life.

There can be no doubt that homosexual men and women suffer from frequent and extensive discrimination because of their sexual orientation. Although firm statistical data about the proportion of Ontario residents who are homosexual are difficult to obtain, it is clear that homosexuals constitute a quite sizeable minority of the population. Yet, as many briefs noted, and as the Commission's own research confirms, individuals have been fired or denied accommodation, or have in many other ways suffered indignities simply because they are homosexuals. This is deplorable in a society which claims, as its public policy, that "every person is free and equal in dignity and rights."

As a brief to the Commission from the United Church of Canada stated,

*Homosexual men and women live and work, for the most part, quite inconspicuously in our society. Their sexual orientation is unknown to many people and considered irrelevant to others who are aware. However, there have been a number of situations recently . . . where persons have been fired from, or demoted, in their jobs when their employers learned that they were homosexual. The competency of the people being fired, or demoted, has not been questioned by their employers. The action has been taken only on the basis of a value judgement of their lifestyle.<sup>96</sup>*

Because of the possible consequences of public disclosure in these circumstances, many people in Ontario who are homosexual in their sexual orientation are vulnerable to blackmail and intimidation. The scope for such blackmail and intimidation would be radically reduced if the *Ontario Human Rights Code* provided protection from discrimination on the ground of sexual orientation.

Following careful deliberation and discussion, and with the support of many briefs and submissions, both from the homosexual community and from other groups including many religious denominations, the Canadian Labour Congress, and the Canadian Association of University Teachers, the Commission recommends that the *Ontario Human Rights Code* be amended to extend to homosexuals the same protection against discrimination which is provided to their fellow citizens by including sexual orientation as a ground on which discrimination is prohibited by the Code.

The Commission recommends further that, as with all other grounds, provision be included in the *Code* for exemptions to be granted, on a case by case basis, in situations where sexual orientation may be a bona fide consideration.

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Division of Mission in Canada, the United Church of Canada, October, 1976.

Where it appears to the Ontario Human Rights Commission, following investigation, that a complaint cannot be dismissed because reasonable grounds exist for believing that discrimination occurred and, further, that it will not be settled through conciliation, despite the efforts of its staff, the Commission may recommend to the Minister that a board of inquiry be appointed. The *Code* provides that such boards may consist of "one or more persons" to hear and decide upon the complaint. But to date, boards of inquiry have always consisted of only one person. This pattern of one-member boards has developed partly as a matter of habit and historical precedent and partly, also, as a response to economic constraints. The Commission believes, however, that it is now time to review critically the practice of appointing one-member boards of inquiry. The human rights issues in many of the cases coming before the Commission are increasingly complex. Often the points in dispute concern sensitive matters on which opinions differ. In such cases, it would frequently be helpful, and reassuring to the public, if more than one person sits on the board which is dealing with the case. Moreover, as human rights cases become in many instances more complex and sensitive, the extensive work to be done by a board of inquiry imposes an increasingly onerous burden on the shoulders of one person.

The Commission therefore recommends that, in appropriate cases, boards of inquiry composed of more than one person be appointed and that the necessary resources be provided to allow for the appointment of such additional members of a board of inquiry as may be required.

In a few instances, there have been undue delays in the completion of reports by boards of inquiry. The Commission recommends that a board of inquiry be required to report within sixty days of the close of its hearings, and that any extension of this time limit must be applied for in writing to the Minister.

The Commission also recommends that boards of inquiry be empowered to award costs in the course of rendering a decision after hearing a complaint.

At present, every person who contravenes any of the provisions of the *Ontario Human Rights Code* or any order made under the *Code* can be prosecuted provided that the minister consents in writing. If found guilty, an individual is liable to a fine of not more than \$1,000. A corporation, trade union, employers' organization or employment agency if found guilty, is liable to a fine of not more than \$5,000. The Commission believes that the maximum fine for individuals should continue to be \$1,000. It recommends, however, that the maximum fine for which corporations, trade unions, employers' organizations and employment agencies are liable be increased to \$10,000 and that this be made applicable also to occupational associations and self-governing professions.

Many individuals and groups in Ontario are keenly interested in human rights. This fact was amply demonstrated by the vigorous public response to the Commission's invitation to participate in its review of the *Code*. Thousands of Ontario residents did so by submitting briefs and through their participation in the public hearings. There are, however, many more people who, though in sympathy with human rights aspirations and principles, are not willing to express their concern or to act upon it. The seriousness of individual and often isolated acts of racism in the community is compounded by the lack of response from such people. A great deal needs to be done to inform and arouse public support for human rights.

Fortunately, many groups and organizations have already shown their active interest in human rights. Some unions have human rights committees, as do many ethnic groups, and organizations of "concerned citizens". There are district-wide human rights "caucuses", as well as neighbourhood meetings. While some focus on one particular problem, others study the whole range of human rights issues. High school classes, Women's Institutes, religious organizations and concerned individuals who are often acting alone are helping members of the community to understand human rights and to perceive their fundamental importance in our society. It is essential that the Ontario Human Rights Commission develop its capacity to work with such individuals and groups.

Many briefs spoke of the relationship of the Commission to these non-governmental initiatives. One brief, for example, argued that,

*It is important that human rights be seen as the responsibility of all of us, and not just as the specific task of an expert human rights agency.<sup>97</sup>*

Another stressed that,

*The most effective role of government, as we see it, should be to encourage, coordinate, and cooperate with the private sector by:*

1. *acting as liaison between all of the private agencies and groups. This would entail knowing what each is doing and suggesting that, when someone is already working in an area, similar and/or duplicative work not be undertaken by the other;*
2. *providing resource materials to assist the private sector;*

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Brief to the Code Review Committee of the Ontario Human Rights Commission from Simon Chester, August, 1976.

3. *helping to subsidize the private sector with funds . . . since part of the costs are already borne by the private sector, less tax dollars would be necessary from government than if government undertook to do the same programming.*<sup>98</sup>

A number of briefs recommended the establishment of local and regional advisory councils to "assure local input into the program and activities of the human rights officer assigned to local communities."<sup>99</sup> These councils "would have the responsibility of identifying relevant needs, promoting relationships with local voluntary and municipal agencies, and interpreting the goals and work of the Commission to the general population."<sup>100</sup>

Many American cities have municipal human rights commissions, and in the United Kingdom there are local Community Relations Councils which work closely with the national Race Relations Commission.

A public Commission should have many lines of communication with the public it is intended to serve. Earlier in this report, the Commissioners recommended that an Annual Report be presented to the Legislature by the Ontario Human Rights Commission. In order that the Annual Report can assess accurately the current state of human rights in the province and make appropriate recommendations, it must be informed by the insights of people and groups who are working week by week at building a climate of respect for human rights in their local communities.

The local officers of the Commission should not be the only people in their communities working for human rights. To be effective, the Commission's work must be related to, and in support of, the initiatives that are being taken by others. In the area of education, for example, Commission staff should spend less time teaching and mounting their own programs and more time providing resources, stimulation, evaluation, and training to assist and support the initiatives taken by others in their communities. The Commissioners therefore recommend that it be a major responsibility of the Ontario Human Rights Commission to "cooperate with, and assist any person, organization or body concerned with human rights, within or outside of the province."



Human rights must be given a higher priority by the Government of Ontario. Both the *Ontario Human Rights Code* and the Commission which is publicly charged with the responsibility for its administration and enforcement must be strengthened in order to meet the human rights needs of the province.

At every one of the seventeen public hearings held in connection with the review of the *Ontario Human Rights Code*, individuals, groups and associations expressed surprise and dissatisfaction with the limited human and financial resources allocated to the Commission to administer and enforce its legislation. Many briefs also made this point. As the Ontario Federation of Labour put it:

*We are . . . aware of the paucity of human rights officers and the low budget allocated to the Commission. We therefore strongly recommend that if the Commission is to meet the challenges of a multi-racial society and actively promote racial equality and harmony, then more staff must be hired and trained and more monies budgeted for this vital work . . .*

*To expect the Commission to perform effectively in the areas of conciliation, enforcement, investigation, public education, community, race and ethnic relations and research, under these circumstances is absurd. We strongly reiterate that this situation must be improved or the constant vigilance necessary for the elimination of social injustice in Ontario cannot be maintained.*<sup>101</sup>

Similarly, the Urban Alliance on Race Relations declared:

*The Government of the Province of Ontario must, even in this period of strict financial restraint, be encouraged and pressured into providing sufficient funding for the Commission to carry out its mandate. Lip-service is not enough. The need for adequate staff and funds is obvious and serves as a test of the provincial government's commitment to human rights.*<sup>102</sup>

And, to cite one more example from among the dozens of briefs which expressed concern about the lack of resources and low priority being

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Ontario Federation of Labour, June, 1976.

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Brief to the Code Review Committee of the Ontario Human Rights Commission from the Urban Alliance on Race Relations, June, 1976.

given to human rights in Ontario, the Canadian Civil Liberties Association stated:

*It is obvious that the Commission will need a larger staff and budget than it currently enjoys . . . the present level of resources is not sufficient to handle the increased demands occasioned by the growing number of complaints being filed. Despite the risk of appearing institutionally self-serving, we ask the Commission to recommend for itself a share of the public revenue sufficient to undertake so comprehensive a program. We believe that there are many constituencies and organizations in the community which would enthusiastically support such an enlargement of the Commission's resources.*<sup>103</sup>

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The growth in the workload of the Ontario Human Rights Commission and the level of support, both human and financial, which has been provided to the Commission to cope with this workload are indicated in the following table.

#### Caseload in Relation to Budget and Professional Staff Resources

Year	1972-1973	1975-1976	1976-1977
Total Caseload:			
Formal & Informal	739	1,185	1,445
Community Problems	—	576	1,710
Public Education Activities	—	717	906
Inquiries & Referrals	9,785	16,657	16,908
Professional Staff Complement	30	30	35
Number of Offices	9	10	10
Budget	\$880,624	\$937,413	\$1,174,200

As the table makes clear, the Commission's workload has increased dramatically in the last few years. In the last five year period, the number of formal complaints lodged with the Commission has doubled, from 739 in 1972-1973 to 1,447 in 1976-1977. In the same period, the number of inquiries and referrals handled by the Commission has grown from 9,785 to 16,908. In the last two years, the number of community relations problems handled by the Commission has tripled, from 576 in 1975-1976 to 1,710 in 1976-1977. In these two

<sup>103</sup>

Brief to the Code Review Committee of the Ontario Human Rights Commission from the Canadian Civil Liberties Association, January, 1977.

years, the number of requests for assistance with public education to which the Commission has responded has also risen sharply, from 717 in 1975-1976 to 906 in 1976-1977, an increase of more than twenty-five per cent.

But just as important as this large increase in the number of cases and assignments handled by the Commission is the fact that the complaints and situations involved have often become much more complex and therefore more difficult to resolve. Discrimination today is in most instances subtle rather than overt. As a result, much more staff time is required to complete investigations and to achieve conciliations.

However, as the table also demonstrates, the Commission has not been given the resources to cope with this great increase in its workload. The slight enlargement in the Commission's budget, staff and number of offices over the past five years has not been at all commensurate with the very large increase in the volume and complexity of its workload during the same period. Consequently, there is now a serious imbalance between the public demands being made upon the Commission and the limited resources which the Commission has at its disposal to meet these demands.

There are now eleven offices of the Ontario Human Rights Commission located in various parts of the province. In addition to those serving the Toronto East and West Regions, offices are located in three other regions which have been so designated for administrative purposes. The Northern Region has offices in Sudbury, Sault Ste. Marie, Thunder Bay and Kenora. The Southwestern Region has offices in London, Windsor, Hamilton and Kitchener, and the Eastern Region has offices in Ottawa and Peterborough. Despite this deployment, there is an urgent need for additional staff and offices to deal more adequately with human rights problems in many other communities. The Commission received representations from many parts of the province expressing concern that their human rights needs were not being cared for adequately because there was no human rights office in or near their community. Such briefs argued compellingly that the reason the Commission does not now receive more complaints from their areas is not because they have no human rights problems but, rather, because no human rights officers are there on the spot to help to inform the residents about their rights under the *Code*, and to receive and follow up complaints. It was argued that if the Commission were able to place officers in such areas, it would soon find that discrimination is as prevalent in these communities as elsewhere.

The Commission's community relations work has also grown markedly in recent years. In the 1976-1977 fiscal year alone, the Commission's staff undertook or responded to 1,710 initiatives in this field. The Commission must continually seek ways to prevent community tensions from turning to violence. Too often, however, because it lacks funds and staff, the Commission can only react to problems, frequently after they have reached the critical stage. Community relations officers are sorely needed to identify potential trouble spots and to defuse situations of potential racism and violence as soon as they begin to develop before irreparable harm is done to the community concerned.

Staff and resources are also urgently needed to meet growing demands in the area of public education and public information. These

two areas are crucial to the state of human rights in Ontario, but negligible resources have been provided to support these aspects of the Commission's work. Each year, the Commission receives more and more requests for assistance with professional development workshops conducted by industry, by teachers, by occupational associations and by many others interested in exploring and learning about human rights matters. But, again, the Commission has neither the funds nor the staff to help adequately with such programs, for example, by producing and making available audio-visual and printed materials, by participating in the planning and operation of such programs, or even by supplying the technical advice that is so often required.

The Commission is particularly weak in the area of public information because of the very limited budget provided to it for this purpose. The Commission must be able to communicate regularly with the public through the mass media, especially the daily press. And we are frequently inundated with requests from television, radio, and newspapers for information and briefings concerning human rights questions, particularly when controversial issues arise as so often happens. But lack of resources forces the Commission to operate without a full-time professional public information officer. The Commission now has to assign this task to one of its officers who handles public information on top of his other responsibilities.

Because it lacks the services of a full-time professional information officer, the Commission's work in this vital area of human rights is badly neglected. As a result, the public's access to knowledge and information related to human rights problems is much more limited in Ontario than in many other jurisdictions where human rights commissions have been able to give this facet of their responsibilities some priority.

Ongoing research into the causes of discrimination is vital if the Commission is to develop new and more effective methods of dealing with human rights problems. Again, lack of funds and staff have prevented the Commission from doing any extensive or sustained work in this area.

The Commission has accomplished a great deal despite the limited resources provided to it. But it lacks the staff and budget required to discharge the responsibilities assigned to it by law under the *Ontario Human Rights Code*. Even without taking into account the proposed revision of the *Code*, the Commission requires an immediate infusion of both staff and financial resources merely to cope more adequately with its existing responsibilities.

At the end of the 1976-1977 fiscal year, over 400 compliance cases were backlogged because the Commission's professional staff, despite a sustained special effort, were unable to deal with all the demands made upon their time.

In addition to these urgent immediate needs under the *Code* as it now stands, further resources will be required to administer and enforce the proposed revisions to the legislation. Modest and gradual adjustments would not suffice. As noted earlier in this report, diffusion of energy and focus has sometimes occurred in other jurisdictions when new grounds were added to their human rights legislation. The problem occurs not because new grounds are added but rather because adequate staff and funding are not made available to administer them.

To prevent this problem from arising in Ontario, the Commissioners recommend that sufficient financial and human resources be made



available to enable the Ontario Human Rights Commission to meet both its current statutory responsibilities and the additional responsibilities which are recommended in this report and embodied in the proposed new *Ontario Human Rights Code*.

In conjunction with their general recommendation for more support, the Commissioners recommend the creation of a number of specific units within the Commission, including units to deal with finance, personnel, public relations and information, education, research, and library resources.

In addition to these new administrative arrangements, the Commissioners also recommend that substantial increases be made in the number of compliance and community relations officers to be stationed at appropriate locations throughout the province.

Funding will be required to re-locate the Commission in offices which are more appropriate to its work and which are far more accessible to the people of the province than is now the case in many communities. Funds will also be required to open additional offices in communities and regions of the province which are not being served by the Commission at present. Additional secretarial and support services will be required in connection with many aspects of this enlarged operation.

The Commissioners estimate that it will require a yearly budget of approximately four million dollars in present terms to provide the people of Ontario with the level of protection and services in human rights which is required. This would represent a tripling of the current budget of the Commission.

As things now stand, much less is being spent on human rights in this province than on many other public programs that may not always be correspondingly more important than human rights.<sup>104</sup> If human rights are a high priority in Ontario, this fact is not reflected in the budget allocated to the Ontario Human Rights Commission.

Ontario's is the senior Human Rights Commission in Canada. Much of the human rights legislation of the other provinces, as well as the new federal human rights legislation, is modeled on the *Ontario Human Rights Code*. But, on a per capita basis, only Prince Edward Island which established its Commission just last year, and Newfoundland allocate less money to their Commissions.

Ontario spends approximately 15¢ per person annually on the work of its Human Rights Commission. Quebec spends about 24¢ per person, and New Brunswick spends about 26¢ per person. Alberta, at 36¢ spends well over twice as much as Ontario on human rights per person. So does Saskatchewan, at 39¢ per person. Manitoba, at 45¢, and Nova Scotia, at 47¢, are each spending three times more than Ontario on human rights per person.

Other ministries and agencies of the Government of Ontario play significant roles in helping to reduce inter-group tensions and to promote equality of opportunity in the province. But the Ontario Human Rights Commission is the major agency in the province for creating "at the community level a climate of understanding and mutual respect in which all our people will be made to feel that all are equal in dignity and rights".<sup>104</sup>

There is urgent daily evidence that the instrument needs to be strengthened.

Dag Hammarskjöld wrote, "The madman shouted in the market place but no one stopped to answer him. Thus it was confirmed that his thesis was incontrovertible."<sup>105</sup>

There are madmen shouting today; and it is time for this province to answer them.

1. To clarify and strengthen the human rights of the people of Ontario, the Commissioners recommend that the *Ontario Human Rights Code* be revised completely.

A draft text for a revised *Code* is included in this Report as chapter XVI.

2. The Commissioners believe that human rights legislation should be readily understandable by the public. We therefore recommend:
  - a) that simple and straightforward language be used in the revised *Ontario Human Rights Code* whenever possible;
  - b) that a short, clear summary of the revised *Code* be prepared, in addition to the legislative formulation;
  - c) that the *Code* be made available in the variety of languages used by the people of Ontario in order that its message can be communicated to all of the residents of this province.
3. The Commissioners strongly support the view that human rights is a single issue the world over, however its application may vary from place to place. We believe that the growth of Ontario's sensitivity to human rights cannot take place in isolation from developments in other parts of Canada and elsewhere in the world. An active participation by the province in national and international human rights activities is essential for the continued nourishment of what is, in Ontario, an old but still fragile tradition of concern for human rights. The Commissioners therefore recommend:
  - a) that the Preamble of the proposed new *Code* accord specific recognition to the principles embodied in the *Universal Declaration of Human Rights* as a common standard for achievement by all peoples and all nations;
  - b) that the province maintain and develop its national and international links in the field of human rights.
4. The Commissioners believe that it would be timely for the Legislature of Ontario to re-affirm the commitment of this province to the fundamental principle of human rights. We therefore recommend that the Preamble to the proposed revision of the *Ontario Human Rights Code* confirm that "it is public policy in Ontario that every person is free and equal in dignity and rights" and declare that "it is the aim of this public policy to create

amongst the residents of this province at the community level a climate of understanding and mutual respect in which all our people will be made to feel that all are equal in dignity and rights.”

5. To recognize and establish the primacy of human rights as public policy in Ontario, the Commissioners recommend:
  - a) that the Government of Ontario and all its agencies be bound by the *Ontario Human Rights Code*;
  - b) and that, unless expressly stated otherwise, no Ontario statute or regulation shall be construed or applied so as to derogate from the principles of the *Code*.
6. The Commission recommends that all new and proposed Ontario laws and regulations be scrutinized on a regular basis to ensure that they do not contravene either the letter or the spirit of the *Ontario Human Rights Code*.
7. The Commission recommends that, in conjunction with the Statute Revision proposed for 1980, careful scrutiny be given to those existing official statutes which may contravene the principles embodied in the *Ontario Human Rights Code*, and that amendments be made to such statutes where appropriate.
8. Recognizing that there may be valid reasons for exceptions to be made in appropriate circumstances to the non-discriminatory policy expressed in the *Ontario Human Rights Code*, the Commissioners recommend that the new *Code* include specific provisions to allow for the possibility of exemptions to be considered in every category. Requests for such exemptions should be examined individually by the Commission and a decision reached on the merits of the particular case. Each exemption should meet the test of being a legitimate exception to the general policy.
9. The Commissioners believe that an important reform was achieved in 1975 when the Ontario Human Rights Commission was reconstituted as a public Commission, the members of which are private citizens, not government employees. To confirm this significant change in the composition and status of the Commission, it is recommended that the proposed new *Code* specify that those appointed to the Commission shall be members of the public.
10. It is recommended that the Ontario Human Rights Commission have a minimum of seven members.
11. It is recommended that consideration be given in the selection of Commission members to achieving an appropriate representation of the geographical and cultural diversity of the province so that a full range of views and experience can be drawn upon in the Commission's deliberations.



12. To provide for both continuity and change in the composition of the Ontario Human Rights Commission, it is recommended that members of the Commission be appointed for a term of four years and that they be eligible for re-appointment for one additional term of up to four years.
13. The Commissioners recommend that it become an established practice for the Premier to consult with the Leader of the Opposition before making a recommendation to the Lieutenant-Governor for the appointment of the Chairman of the Ontario Human Rights Commission. Such consultations should also include the leader of a third party if it is represented in substantial numbers in the Legislature.
14. The Commissioners recommend that it become established practice for the Chairman of the Commission to be consulted before appointments are made to the Commission by the Lieutenant-Governor in Council.
15. In order that the Ontario Human Rights Commission can properly discharge its responsibilities as the guardian of the human rights of the people of Ontario against abuses from any quarter, whether in the public or the private sector, the Commission must have an autonomy and freedom from government interference that is both real and publicly perceived to be real. To this end, the Commissioners recommend:
  - a) that some greater distance be placed between the Commission and the various arms of government against which it may have to receive and investigate complaints;
  - b) that it is no longer appropriate for the Commission to continue as a branch or division of the Ministry of Labour;
  - c) that the Commission not become a branch of any other ministry of the government;
  - d) that the Commission be responsible for its own administrative arrangements.
16. The Commissioners recommend that the Ontario Human Rights Commission be made directly responsible to the Premier of Ontario or to a member of the cabinet to whom this specific responsibility is assigned by the Premier. Such a reporting relationship to a minister and, through the minister, to the Legislature should not involve making the Commission a branch of the department for which the minister is responsible. It should be possible for the Commission to report directly to the minister concerned, without becoming enmeshed in the administrative hierarchy and procedures of the ministry. Such an arrangement would be consonant with the principles of responsible parliamentary government and with the need of a Commission which is responsible for the protection of human rights to have adequate autonomy, identity and accessibility.

17. The Commissioners recommend:

- a) that an *Annual Report* be prepared each year by the Ontario Human Rights Commission to be tabled in the Legislature and made available to the public;
- b) that the *Annual Report* include a detailed statistical analysis of the Commission's activities, together with an assessment of the state of human rights in the province and any recommendations the Commission may wish to put forward for changes in the *Code* or in other provincial statutes, regulations and programs relating to human rights;
- c) that adequate financial provision for the preparation and distribution of the *Annual Report* be included in the Commission's budget.

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18. The Commissioners recommend:

- a) that the Legislature establish a Standing Committee on Human Rights, representative of all parties in the House;
- b) that this Standing Committee provide a forum for regular and thorough discussion of human rights issues by members of the Legislature;
- c) that the Standing Committee receive and examine the *Annual Report* of the Ontario Human Rights Commission and review the work of the Commission on an ongoing basis;
- d) that the Standing Committee assist in the development of appropriate legislative responses to recommendations initiated by the Commission, by members of the Legislature, and by members of the public.

19. The Commissioners recommend that the Ontario Human Rights Commission be made more accessible to the people of the province. In many different ways, it should be made possible for the public to identify and to make use of the services of the Commission much more readily than is now the case. Specific proposals to improve the accessibility of the Commission to the public are contained in the report. These deal with such questions as the location of Commission offices, telephone listings, letterhead, logo, support staff, program delivery, and the distribution of information.

20. To meet the growing incidence of inter-group tensions and community relations problems in the field of human rights, the Commissioners recommend:

- a) that the Ontario Human Rights Commission be provided with more staff and resources to cope with the sharp rise in its community relations workload;

- b) that the mandate of the Ontario Human Rights Commission be clarified and expanded to give to it the authority to develop and conduct community, race and ethnic relations programs designed to reduce and prevent inter-group tensions and conflict.
21. To help combat historical and institutionalized patterns of discrimination, the Commissioners recommend that the new *Ontario Human Rights Code* include provision for a complaint to be filed by a "class of persons", as well as by an individual. This would enable the Commission to receive and investigate complaints from groups of individuals who may have been discriminated against as a group or as a class of persons.
  22. To help to correct patterns of discrimination and inequity in opportunity which are the result of traditional practices or the legacy of years of unequal treatment, the Commissioners recommend:
    - a) that the new *Ontario Human Rights Code* include provisions to enable the Commission both to approve and to recommend affirmative action programs;
    - b) that the private sector be encouraged and assisted to undertake affirmative action programs designed to correct the historical disadvantages faced by many groups in Ontario;
    - c) that the Government of Ontario demonstrate its commitment to human rights principles by undertaking affirmative action programs in appropriate areas in consultation with the Commission;
    - d) that the educational community develop programs, in consultation with the Commission, to support affirmative action programs designed to improve the qualifications and opportunities of traditionally disadvantaged groups.
  23. The Commission recommends that the *Ontario Human Rights Code* be revised to prohibit any person or employer from making available in Ontario a contract which includes discriminatory terms that are contrary to the principles of the *Code* and which, therefore, contradict the declared public policy of the province.
  24. The Commission recommends that the Government of Ontario and all its agencies refuse to make available any financial assistance in the form of a loan, grant or contract to any person, group, or enterprise that discriminates against any other person or class of persons on any of the grounds that are prohibited in the *Ontario Human Rights Code*.
  25. The Commissioners recommend a broadly based program of public education to promote a better knowledge and understanding of human rights throughout Ontario. To this end, the Commissioners recommend:

- a) that the Ontario Human Rights Commission be provided with the funds required to plan and conduct a major program of public education, working in close co-operation with educational and other agencies;
  - b) that the public relations and information aspects of the Commission's work be expanded so that the principles embodied in the *Code*, and the province's support of these principles, can be communicated more effectively to all Ontario residents;
  - c) that an Information and Public Relations Unit be established within the Ontario Human Rights Commission and provided with adequate financial resources to do its job.
26. The Commissioners recommend that the Ontario Human Rights Commission be provided with adequate resources to enable it to hold meetings outside Toronto in various parts of the province and to improve its communications with communities throughout Ontario.
27. The Commissioners recommend that a Human Rights Library and Documentation Centre be established, both to meet the professional needs of human rights officers and as a resource open to the public.
28. The Commissioners recommend the establishment of a research division within the Ontario Human Rights Commission and that adequate budgetary resources be made available to make possible the major research effort in the field of human rights which is now urgently required.
29. The Commissioners note with concern that the obvious need for publications and audio-visual materials about human rights is not being met. To meet this need, we recommend:
- a) that the Ontario Human Rights Commission be equipped with the financial resources required to initiate a program of support for publications in the field of human rights, both by assisting others to prepare such publications through grants and contracts and by undertaking itself the preparation of appropriate publications;
  - b) that the Commission be provided with the necessary funds to undertake an active program of periodical and newsletter publication and distribution; the journal *Human Relations*, now published at only sporadic intervals because of lack of funds, should become a quarterly with articles from both Canadian and international sources; the Commission's newsletter, reporting on current developments in the field of human rights in Ontario, should be published more frequently and distributed more widely;



- c) that resources be provided to enable the Commission to make greater use in its work of film, television, radio and other audio-visual media.
- 30. The Commission recommends that its summer internship program be expanded to provide an opportunity for more students to gain first-hand experience of human rights issues and programs in various locations across the province.
- 31. The Commissioners recommend that the Ontario Human Rights Commission be provided with the necessary staff and financial resources to establish and maintain regular consultation between the Commission and the personnel departments of various corporations, agencies and organizations, including government. Given adequate resources, the Commission should work with such personnel departments in sponsoring and participating in seminars and courses for employees which deal with human rights issues and concerns.
- 32. The Commission recommends that all police training programs in the province include mandatory instruction in human rights designed to help recruits to recognize and cope with their own attitudes towards those who belong to cultural groups other than their own. Instruction of this type should also be made mandatory for police officers already in service.
- 33. The Commission recommends that education about human rights be included in the education and training programs of such other professional and vocational groups as teachers, lawyers, doctors, nurses, welfare officers, employment counsellors and personnel officers.
- 34. The Commissioners recommend that the Ontario Human Rights Commission be provided with the resources to enable it to assist in the development of appropriate programs in human rights education for specific occupational groups, and also to enable it to assist with the preparation of the instructional materials that will be required for such programs.
- 35. Because it is public policy in Ontario that "every person is free and equal in dignity and rights", the educational system of this province ought to reflect and forward that policy. The Commissioners, therefore, recommend that no one should graduate from an Ontario secondary school without having engaged in some serious classroom study and discussion about the concept and principles of human rights and about how these can be applied in practice.
- 36. The Commission recommends that before leaving elementary school every student should be made aware of the existence of the *Ontario Human Rights Code* and be made familiar with its purposes.
- 37. The Commissioners recommend that the Ontario Ministry of Education examine the curriculum of the province's educational

system, in consultation with the Ontario Human Rights Commission, to determine ways in which courses designed to promote a knowledge and understanding of human rights questions can be introduced at the appropriate levels.

38. The Commission recommends that more attention be devoted in the province's educational system to the study of the language, history and culture of other societies in order to assist Ontario students both to understand world events better and to appreciate more fully the rich multicultural heritage of their own society.
39. The Commissioners recommend that a full and careful review of the school curriculum be undertaken at regular intervals to ensure that it reflects, both in the subjects taught and in the way in which they are taught, the diverse culture and history of our own country. In particular, there should be a significant expansion of opportunities for students to take courses pertaining to the language and culture of the many different peoples who have made Ontario their home.
40. The Commissioners recommend that the province's policy on textbooks and other learning materials be carefully reviewed at regular intervals to ensure that these reflect the very rich and diverse multicultural character of our society. To this end, care must be taken to ensure:
  - a) that a better balance is achieved in the literature taught in our schools by making use of authors of cultural backgrounds as diverse as those of the students being taught;
  - b) that careful attention is given to the contents of textbooks to ensure that they are accurate and sensitive to minority history, customs and values;
  - c) that prejudice and discrimination are not recycled and perpetuated.
41. The Commission reaffirms its support for the proposals contained in the study entitled *Teaching Prejudice*, by Garnet McDiarmid and David Pratt. It recommends that a number of these proposals, identified in the text of this Report, which have not yet been fully implemented by the Ontario Ministry of Education should now be put into effect.
42. The physical design of school buildings, the nature of extra-curricular programs, and, most ironically, even the official guidance activities and pamphlets of a school can reflect and promote discriminatory attitudes towards male and female roles. The Commission recommends that these areas of the educational system be reviewed to ensure that prejudice and discrimination are not being recycled and perpetuated.
43. The Commissioners note the particular importance of teacher training to all aspects of human rights in the educational system. It is essential that teacher training provide adequate opportunities for

teachers to learn to recognize and cope with prejudice and discrimination, both their own and others. The Commissioners therefore recommend:

- a) that all teacher training programs in Ontario include appropriate education about human rights in their curriculum, including instruction about the intent and application of the *Ontario Human Rights Code*;
- b) that in-service training programs for teachers should also promote a fuller knowledge and understanding of human rights;
- c) that professional development days, summer courses, and special workshops for principals, vice-principals, guidance counsellors and teachers, be used to discuss the principles of the *Code* and the application of these principles in the school system.

44. The Commission recommends that teacher education be broadened so as to prepare teachers for the multilingual and multicultural classes which they will encounter in many parts of Ontario. Teachers should be familiarized with the background, traditions, and language of their students in situations where the schools to which they have been assigned have significant numbers of students whose original language is other than English or French.
45. The Commission believes that the membership of the teaching profession in Ontario ought to reflect better than it now does the multicultural composition of the province. To achieve this end, the Commissioners recommend that a particular effort be made to recruit to the teaching profession members of the cultural groups that are now under-represented in it. As an interim measure, suitably qualified volunteers from different language groups and cultural backgrounds should be brought regularly into the classroom, as recommended in the report of the Hall-Dennis Commission, *Living and Learning*.
46. The Commission notes the particular need for the school system to recognize and to respond more effectively to the special and distinctive problems of the Native peoples in Ontario. The Commission recommends that every measure possible be taken, as promptly as possible, to improve the educational opportunities of the Native peoples in this province, working in close consultation with the Native peoples.
47. The Commission recommends that the province press forward more vigorously towards its declared objective of equality of opportunity for anglophone and francophone children in the Ontario school system.
48. The Commissioners recommend that Ontario's community colleges review their programs to ensure that they are sensitive to human rights considerations. To this end, community colleges should:

- a) include instruction about human rights in appropriate courses, for example in those dealing with employment conditions, tourism and recreation, law enforcement, social work, and nursing;
  - b) provide relevant courses in language and culture, at an effective working level, as part of their service to the communities in which they are located.
49. The Commissioners recommend:
- a) that the universities of this province look carefully at their regulations, curriculum, facilities, entrance requirements, and hiring practices to see whether they are providing a real equality of opportunity to men and to women, and to people of diverse cultural backgrounds;
  - b) that more attention be devoted to human rights in such university courses as political science, sociology, history and commerce, and in such professional educational programs as law, medicine, business administration, and social work;
  - c) that more research be fostered at the university level in the field of human rights.
50. The Ontario Human Rights Commission has an important part to play in assisting the educational community of this province to make its full contribution to the elimination of discrimination. The Commissioners, therefore, recommend that more staff and resources be provided to the Commission so that this vitally important area of human rights work can be given the attention it requires.
51. To deal more effectively with the current widespread distribution of hate literature and to achieve a more reasonable balance between freedom of speech and the right of individuals and groups to freedom from discrimination and racist abuse in Ontario, the Commissioners recommend:
- a) that the present section of the *Ontario Human Rights Code* which deals with discriminatory notices, signs, symbols, emblems or other representations be broadened to encompass those which are likely to expose a person to hatred or contempt;
  - b) that this section prohibit not only notices, signs, symbols, emblems or other representations which indicate discrimination or an intention to discriminate, but also those which attempt to foster discrimination.
52. The Commissioners recommend that the section of the *Ontario Human Rights Code* dealing with accommodation, services and facilities to which the public is customarily admitted, be clarified and simplified in the proposed new *Code* so that it applies to the



full range of services and facilities available to the public in this province.

53. The Commission recommends that private clubs and associations review their requirements and criteria for membership to ensure that these are reasonable and legitimate and that they do not contravene either the letter or the spirit of the *Ontario Human Rights Code*.

54. Housing accommodation, employment, and access to public services and facilities are sometimes denied to an individual because he or she is married to, related to, or accompanied by some other person who belongs to a group against which discrimination is prohibited. The Commissioners, therefore, recommend that each of the sections of the *Ontario Human Rights Code* dealing with services and facilities, and housing and employment be amended to prohibit discrimination against a person or class of persons because of association with any other person or class of persons against whom discrimination is prohibited by the *Code*.

55. The Commission believes that the section on housing in the *Ontario Human Rights Code* should be expanded to take into account urgent social needs in this area of the life of the province. It therefore recommends:

- a) that this section include all of the grounds against which discrimination is prohibited by the *Code*;
- b) that this section of the *Code* be extended to cover discrimination against any person or class of persons with respect to the buying, selling or renting of property.

56. In order to deal more effectively with discrimination in employment, the Commission recommends:

- a) that the *Ontario Human Rights Code* be revised to clarify and strengthen the section dealing with employment;
- b) that the *Code* be amended to prohibit discrimination in refusing to employ or to continue to employ or to refer for employment any person or class of persons, and to prohibit discrimination in the course of employment against any employee or class of persons or the imposition of terms or conditions which discriminate against any employee or class of persons because of any of the prohibited grounds of this Act.

57. The Commission believes that the terms "employ" and "employer" should be defined in the *Ontario Human Rights Code* so as to make clear that the section covers not only employer-employee relationships that are direct, but also those that are indirect. It therefore recommends:

- a) that "employ" be defined in the *Code* as meaning to engage or utilize the services of a person either directly or indirectly through an employer;

- b) that “employer” be defined in the *Code* to include a person who contracts with a person for services to be performed by that person or wholly or partly by another person.
58. Under the present *Ontario Human Rights Code*, it is possible for an employer who is paying higher wages to men than to women, or vice versa, for work of equal value, to meet the requirements of the *Code* not to discriminate on the basis of sex simply by reducing the salary of the higher paid employees to the level of the lower paid employees. The Commissioners recommend the inclusion of a clause in the new *Code* to prohibit this practice.
  59. In order to deal more effectively with discrimination by such intermediaries as employment agencies, the Commission recommends:
    - a) that procedures be established to monitor the referral practices of employment agencies to ensure their fairness and their compliance with the *Code*;
    - b) that employment agencies which accept discriminatory assignments be subject to the loss of their license, under the *Employment Agencies Act*, as not being worthy of the public confidence.
  60. In addition to the proposed new section on contracts in the revised *Code*, the Commission recommends that a section be added to the *Code* to require all companies doing business with the Government of Ontario to adhere to the principles of the *Code*.
  61. The Commission recommends that the present provisions of the *Ontario Human Rights Code* which prohibit discrimination by trade unions and self-governing professions be extended to include employers organizations and occupational associations.
  62. The Commission recommends that, for the purposes of the *Code*, “occupational association” be defined as an organization of employees with similar occupations formed for purposes that include the regulation of relations between employees in that occupation and employers.
  63. The Commission recommends that, for the purposes of the *Code*, “self governing profession” be defined as an organization formed for purposes that include the adjudication of qualifications necessary for the practice of that profession provincially or nationally.
  64. The Commission recommends that the reprisals section of the *Ontario Human Rights Code* be strengthened so as to prohibit an employer not only from refusing to employ or to continue to employ any person or class of persons who has taken part in a proceeding under the *Code*, but also from refusing to refer for employment a person or class of persons who has taken part in a proceeding under the *Code*.

65. The Commissioners recommend that adequate financial resources be made available to enable the Ontario Human Rights Commission to discharge the additional responsibilities recommended in the proposed new *Ontario Human Rights Code*, as well as meeting the growing demands that are being made upon the Commission under the existing legislation.
66. For the purposes of the *Ontario Human Rights Code*, the Commission recommends that "discrimination" be defined as differentiating adversely against any person or class of persons pursuant to the grounds and social areas encompassed by the *Code*, without a bona fide reason as determined by the Commission.
67. Although other forms of discrimination must receive careful attention, there can be no doubt that race-related issues are central to the work of the Ontario Human Rights Commission and must remain a major priority in its work. It is essential to increase the ability of the Commission to respond to the urgent racial dimensions of human rights in Ontario today. To this end, the Commissioners recommend:
  - a) that adequate staff and financial resources be made available to enable the Commission to give proper attention to this vitally important and extremely sensitive area of concern;
  - b) that the *Code* be amended to empower the Chairman of the Ontario Human Rights Commission to establish sub-divisions within the Commission, one of which should be focused on complaints involving race, nationality, ancestry, and place of origin.
68. The Commissioners recommend:
  - a) that nationality be retained in the *Code* as a ground on which discrimination is prohibited;
  - b) that the *Code* be amended to include nationality as a ground for which an exemption can be secured if the Commission determines that Canadian citizenship is a *bona fide* occupational qualification;
  - c) that affirmative action programs be implemented to encourage institutions which have a disproportionate number of non-Canadians on their staffs to seek out and/or prepare suitably qualified Canadians in order to redress this imbalance.
69. To ensure freedom of religious belief by preventing discrimination on the ground of creed, the Commissioners recommend:
  - a) that in future a broader interpretation of the definition of "creed" be used in the *Code* in order to enable the Ontario Human Rights Commission to investigate complaints of discrimination which involve deeply held moral or religious convictions which are either not the accepted official stance of

the complainant's religious group or organization or involve a complainant who is not a member of a formal religious group or organization;

- b) that employers establish flexible work schedules which make adequate allowance for the different practices of employees in the matter of religious observance.

70. The Commissioners recommend that *The Ontario Labour Relations Act* be reviewed by the Ministry of Labour, in consultation with appropriate bodies, including the Ontario Federation of Labour, to determine whether, and under what circumstances, it would be desirable to extend the right to an exemption from paying union dues on the grounds of religious belief to those employees whose employment commenced after a collective agreement was established.

71. As a matter both of principle and of public education, as well as of ensuring the future security of political liberty in Ontario, the Commissioners recommend that the protection of the *Ontario Human Rights Code* be extended to include freedom from discrimination because of political belief. We recommend that complaints involving discrimination on the basis of political belief be accepted and investigated by the Commission under the expanded definition of creed proposed in this Report.

72. Many Ontario residents at present suffer from discrimination because they are considered too young or too old, despite the fact that they are capable and active members of society. The Commission therefore recommends that protection from discrimination on the ground of "age" be extended in the new *Code* to include all persons eighteen years of age or older.

73. Many young persons in Ontario who are less than eighteen years old suffer from discrimination because of their race, creed, colour, sex, marital status, nationality, ancestry and place of origin. The Commissioners therefore recommend that the definition of the term "person" as used in the *Code* be broadened to allow individuals of any age to lay complaints of discrimination.

74. The Commission recommends that the Government of Ontario introduce legislation to assure that children in this province have the right to legal representation in their own interests during the course of separation or divorce proceedings.

75. The Commissioners recommend:

- a) that the Attorney-General of Ontario give consideration to the question of whether children should now have the same right to protection from physical assault as is enjoyed by adult members of the community;
- b) that the Attorney-General initiate discussions with the federal government aimed at eliminating from the Criminal Code provisions which discriminate against children.



76. Despite recent advances, women continue to face discrimination in many areas of life in Ontario. The Commissioners therefore recommend:
  - a) that the Commission be empowered to recommend as well as to approve affirmative action programs designed to correct historical disadvantages and patterns of institutionalized discrimination that still often confront women in this province;
  - b) that the Commission be provided with the funds to mount effective public education programs designed to redress entrenched discrimination against women;
  - c) that the Ontario Ministry of Education work with the Ontario Human Rights Commission to eliminate sex stereotyping in the educational system which still frequently inhibits and restricts the personal fulfilment and career opportunities of both men and women;
  - d) that greater sensitivity to the employment aspirations and capabilities of women as well as men be encouraged by and amongst personnel officers in both the public and the private sectors;
  - e) that the practice of dismissing an employee, or of refusing to consider a person for employment, who is or becomes the spouse of another employee at the same enterprise be discontinued except in those instances where it can be demonstrated that such an arrangement would effectively limit the performance of either of the individuals in their respective duties;
  - f) that access to credit and loans for women be determined on the basis of the individual's financial background and not on the basis of sex or marital status;
  - g) that discriminatory height and weight requirements which have no bearing on the ability to perform a particular job be eliminated. Such requirements have often had the effect of denying employment opportunities to women.
77. The Commissioners recommend that marital status be included as a prohibited ground for discrimination in all sections of the new *Ontario Human Rights Code*.
78. The Commissioners recommend that "family relationship" be added to the *Ontario Human Rights Code* as a ground on which discrimination is prohibited. This would enable the Commission to investigate many of the problems facing single-parent families and families with children.
79. The human rights of the physically disabled have not been adequately respected in Ontario. For years, many of the physically disabled have in one way or another been segregated from the rest of society. However well-intentioned this practice may have been,

the result has often been a denial of the human rights of disabled people, and the loss to society of the contributions these people could have made. The Commissioners therefore recommend:

- a) that physical disability be included in the proposed new *Code* as a ground on which discrimination is prohibited;
  - b) that, for the purposes of the *Code*, physical disability be defined as a determinable medical characteristic of an individual, including the history of such a medical characteristic, which may result from disease, injury, congenital condition of birth or functional disorder and which is unrelated to an individual's ability to perform the duties of a particular job or employment, or to live in a particular housing accommodation or to enjoy the benefits of a particular public service or facility.
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80. The Commission recommends that the Government of Ontario and the municipal governments of the province give careful consideration to the proposals and recommendations contained in *Supplement Number Five of the National Building Code*, produced by the National Research Council, relating to the construction of sidewalks, ramps, hallways, parking lots, elevators, switches, water fountains, telephones and electrical outlets which are accessible to the disabled, and that the provincial and municipal governments adopt these proposals as guidelines for their building standards in all appropriate situations.
81. The Commissioners recommend:
- a) that the new *Ontario Human Rights Code* include explicit reference to the right of access to the community's facilities for people who are physically disabled;
  - b) that not only new buildings in planning or under construction be made accessible to the physically disabled but that existing buildings as well, including churches, theatres, libraries, arenas, pools, courtrooms and museums to name but a few, should be made accessible to the physically disabled, within a reasonable period of time in conformity with a proper building code.
82. The Commission commends the Government of Ontario for establishing pilot transportation projects for the disabled in a number of communities. The Commission recommends that the number of these projects be increased and that the provincial and municipal governments set as their goal the provision of public transportation which is as accessible to the physically disabled as to other members of the community.
83. While there will always be a need for special schools and programs for the physically disabled, the Commission recommends that students with physical disabilities should be brought into and made a part of the regular school system to the fullest extent possible.
84. The Commission recommends the abolition of the regulations and practices which now require physically disabled people, who have

already met the entrance requirements of Ontario's universities and colleges, to satisfy, as well, the Ontario Ministry of Community and Social Services that they are qualified to enter upon post-secondary education.

85. The Commission supports the recommendation made by the Mayor of Toronto's Task Force on the Disabled and the Elderly that "all disabled people, no matter what the cause of their disability, be given the same opportunities and resources as those received by claimants who are protected under the Workmen's Compensation Board." The Commission believes that this would do much to enlarge the opportunities available to the physically disabled and to ensure that these members of the community receive the assistance they urgently require.
86. The Commission recommends that the Ontario Ministry of Community and Social Services and the Ministry of Health explore with the physically disabled and with the appropriate federal agencies the possibility of developing programs to help subsidize the purchase, replacement or repair of remedial apparatus which are essential to the physically disabled.
87. Section 23 of *The Employment Standards Act* at present allows an employer to hire physically disabled persons to perform work at less than the minimum wage. The Commission recommends that *The Employment Standards Act* be revised to ensure that this section does not conflict with the proposed amendments to the *Ontario Human Rights Code* regarding the employment of the disabled and the establishment of affirmative action programs.
88. The Commission recommends that criminal record be included in the *Ontario Human Rights Code* as a ground on which discrimination is prohibited.
89. The Commission recommends that a special provision be added to the *Ontario Human Rights Code* to allow an employer to make job-related inquiries concerning age, criminal record and physical disability during the course of an employment interview.
90. The Commissioners recommend that sexual orientation be included in the *Ontario Human Rights Code* as a ground on which discrimination is prohibited.
91. To date, boards of inquiry appointed in compliance with the *Ontario Human Rights Code* have always consisted of only one person. As human rights cases become more complex and sensitive, the extensive work to be done by a board of inquiry now often imposes a burden that is unduly onerous for the shoulders of one person. The Commissioners therefore recommend that, in appropriate cases, boards of inquiry composed of more than one person be appointed and that the necessary resources be provided to allow for the appointment of such additional members of a board of inquiry as may be required.

92. In a few instances there have been undue delays in the completion of reports by boards of inquiry. The Commission therefore recommends that a board of inquiry be required to report within sixty days of the close of its hearings, and that any extension of this time limit must be applied for in writing to the Minister.
93. The Commissioners recommend that a board of inquiry be empowered to award costs in the course of rendering a decision after hearing a complaint.
94. At present, every person who contravenes any of the provisions of the *Ontario Human Rights Code* or any order made under the *Code* can be prosecuted provided that the minister consents in writing. If found guilty, an individual is liable to a fine of not more than \$1,000; a corporation, trade union, employers' organization or employment agency, is liable to a fine of not more than \$5,000. The Commission recommends:
  - a) that the maximum fine for an individual continue to be \$1,000;
  - b) that the maximum fine for a corporation, trade union, employers' organization or employment agency be increased to \$10,000;
  - c) that occupational associations and self-governing professions also be made liable, if found guilty, to a maximum fine of \$10,000.
95. To be effective, the work of the Ontario Human Rights Commission must be related to, and in support of, the initiatives that are being taken by others at the local, provincial, interprovincial, national and international levels. The Commissioners therefore recommend that it be a major responsibility of the Ontario Human Rights Commission to cooperate with and assist any person, organization or body concerned with human rights, within or outside of the province.
96. To meet the rapidly expanding and increasingly complex workload of the Ontario Human Rights Commission under the present legislation, to ensure that staff and resources are available to meet the additional responsibilities proposed in this report, to provide the people of Ontario with the level of protection and services in human rights which is required, and to give to human rights the priority it deserves as fundamental public policy of this province, the Commissioners recommend that the Ontario Human Rights Commission be provided with a yearly budget of approximately four million dollars. This would represent a tripling of the current budget of the Commission.
97. The Commissioners recommend that the *Ontario Human Rights Code* be subject to a thorough and comprehensive review at regular intervals to ensure that it is effective in addressing new or changing human rights problems. Other provincial legislation and policies relating to human rights should also be subject to similar review at the same time and in conjunction with the periodic review of the *Code*.

**Preamble**

WHEREAS recognition of the inherent dignity and the equal inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

AND WHEREAS in recognition that the principles embodied in the Universal Declaration of Human Rights are a common standard for achievement by all peoples and all nations, it is public policy in Ontario that every person is free and equal in dignity and rights;

AND WHEREAS it is the aim of this public policy to create amongst the residents of this Province at the community level a climate of understanding and mutual respect in which all our people will be made to feel that all are equal in dignity and rights, that each is a part of the whole Canadian community, and that each has a rich contribution to make to the development and well being of our province and nation;

AND WHEREAS these principles have been confirmed in Ontario by a number of enactments of the legislature;

AND WHEREAS it was found desirable in 1962 to enact the Ontario Human Rights Code to codify such enactments and in subsequent years to extend them;

AND WHEREAS there is a necessity for this Act to be revised from time to time to protect newly recognized human rights needs;

THEREFORE, Her Majesty by and with the advice and consent of the legislative assembly of Ontario enacts as follows:



<b>Discrimination re property</b>	<p>11. (1) No person shall directly or indirectly,</p> <ul style="list-style-type: none"> <li>a) deny to any person or class of persons occupancy of any commercial unit or any housing accommodation; or</li> <li>b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any commercial unit or any housing accommodation; or</li> <li>c) discriminate against any person or class of persons with respect to the buying, selling or renting of property;</li> </ul> <p>because of any of the prohibited grounds of this Act;</p> <p>(2) No person shall directly or indirectly deny to any person or class of persons or discriminate against any person or class of persons with respect to occupancy or any term or condition of occupancy of any commercial unit or housing accommodation or with respect to the buying selling or renting of property because of their association with any other person or class of persons against whom discrimination is prohibited by this Act;</p>
<b>Exception</b>	<p>(3) The provisions of this section relating to any discrimination against the person or class of persons with respect to the buying, selling or renting of property do not apply where any of the prohibited grounds is a bona fide requirement for occupancy, sale or purchase as determined by the Commission;</p>
<b>Special plan or programs</b>	<p>(4) Notwithstanding the provisions of this section, the Commission may, upon such conditions or limitations and subject to revocation or suspension, recommend or approve in writing any special plan or program to provide housing or commercial accommodation or property for members of a group or class of persons against whom discrimination is prohibited by this Act.</p>

<b>Discrimination in employment</b>	12. (1) No person or employer shall directly or indirectly, <ul style="list-style-type: none"> <li>a) refuse to employ or to continue to employ or refer for employment any person or class of persons; or</li> <li>b) in the course of employment discriminate against any employee or class of person;</li> <li>c) discriminate against any employee or class of persons with regard to any term or condition of employment; because of any of the prohibited grounds of this Act;</li> </ul>
<b>Pay not to be reduced</b>	(2) No person or employer shall reduce the rate of pay of an employee in order to comply with the provisions of this Act;
<b>Discrimination by association</b>	(3) No person or employer shall refuse to employ or continue to employ or refer for employment or in the course of employment discriminate against any employee or class of persons because of association with any other person or class of persons who are protected against discrimination because of any of the prohibited grounds of this Act;
<b>Discriminatory advertising</b>	(4) No person or employer shall publish, display, circulate or broadcast or cause to permit to be published, displayed, circulated or broadcast any advertising which indicates directly or indirectly discriminatory limitations, specifications or preferences for a position of employment because of any of the prohibited grounds of this Act;
<b>Applications for employment</b>	(5) No person or employer shall use or circulate any employment application form or make any inquiry that expresses either directly or indirectly any discriminatory limitation, specification or preference for a position or employment because of any of the prohibited grounds of this Act or that requires an applicant for a position or employment to furnish any information with regards to any of the prohibited grounds of this Act that might be used to discriminate against that person or class of persons;
<b>Exception to above</b>	(6) Job related oral inquiries concerning age, criminal record and physical disability may be made during the course of an employment interview;

<b>Employment agencies</b>	(7) No person or employment agency shall discriminate against any person or class of persons in receiving, disposing of or otherwise acting upon applications for its service or in referring an applicant or applicants to an employer or anyone acting on his behalf because of any of the prohibited grounds of this Act;
<b>Membership</b>	(8) No trade union, self governing profession, employer's organization or occupational association shall exclude from membership or expel or suspend any person, class of persons or member because of any of the prohibited grounds of this Act;
<b>Contracts</b>	(9) No person or employer shall make available a contract that, <ul style="list-style-type: none"> <li>a) discriminates against any person or class of persons; or</li> <li>b) includes terms or conditions that discriminate against any person or class of persons,</li> </ul> because of any of the prohibited grounds of this Act;
<b>Exception</b>	(10) The provisions of this section relating to any discrimination against any person or class of persons with respect to a position or employment do not apply where any of the grounds is a bona fide occupational qualification and requirement for the position or employment as determined by the Commission;
<b>Special plans or programs</b>	(11) Notwithstanding the provisions of this section, the Commission may, upon such conditions or limitations and subject to revocation or suspension, recommend or approve in writing any special plan or program to increase the employment of members of a group or class of persons against whom discrimination is prohibited by this Act;
<b>Contract compliance</b>	13. (1) In making available any government financial assistance in the form of a loan, grant or contract; the Crown and any agency thereof, shall ensure that the recipient does not discriminate against any person or class of persons because of any of the prohibited grounds of this Act;
<b>Exception</b>	(2) The provisions contained in subsection 1 do not apply where any of the grounds are determined to be a bona fide qualification or requirement by the Commission;

**Special plans  
or programs**

(3) Notwithstanding the provisions of this section, the Commission recognizes that some loans, grants or contracts made available by the Crown or any agency thereof may be used to correct the historical disadvantages faced by some groups or classes of persons protected from discrimination by this Act by providing for special plans or programs which encourage the employment or the training for employment of members of these groups. The Commission may, upon such conditions or limitations and subject to revocation or suspension recommend or approve in writing any such special plan or program.

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**Discrimination  
etc. prohibited  
for taking part  
in a proceeding  
under this Act**

14. (1) No person or employer shall,
- a) refuse to employ or to continue to employ or to refer for employment any person or class of persons;
  - b) threaten to dismiss or threaten to penalize in any other way any person or class of persons in regard to a position or employment or any term or condition thereof;
  - c) discriminate against any person or class of persons in regard to a position or employment or any term or condition thereof; or
  - d) intimidate or coerce or impose any pecuniary or other penalty upon any person or class of persons,
- on the ground that such person or class of persons,
- e) has made or may make a complaint under this Act;
  - f) has made or may make a disclosure concerning the matter complained of;
  - g) has testified or may testify in a proceeding under this Act; or
  - h) has participated or may participate in any other way in a proceeding under this Act.



# Part

## 5

### Procedures by which Complaints are Laid

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Complaints	15. (1) Any person or class of persons who have reasonable grounds for believing that any person has contravened a provision of this Act may file with the Commission a complaint in the form prescribed by the Commission;
Consent of offending person	(2) Where a complaint is made by a person other than the person or class of persons whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person or class of persons alleged to be offended against consents thereto;
Commission initiated complaints	(3) Where the Commission has reason for believing that any person has contravened a provision of this Act in respect of a person or class of persons, the Commission may initiate a complaint.

# Part 6

## Investigation and Conciliation of Complaints

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### **Inquiry and settlement**

16. (1) Where a complaint has been filed with or initiated by the Commission, the Commission or an officer thereof shall inquire into the complaint and endeavour to effect a settlement in the matter complained of;

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### **Powers of Commission and officers of the Commission**

- (2) In carrying out an inquiry under subsection 1, the Commission or an officer of the Commission may.
- a) subject to subsection 3, enter in or upon the lands or premises of a person at any reasonable time without a warrant for the purpose of investigating a complaint;
  - b) require the production for inspection and examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
  - c) upon receipt therefor, remove any employment applications, payrolls, records, documents, writings and papers, but such copying such be carried on with reasonable dispatch and the applications, payrolls, records, documents, writings and papers shall be promptly thereafter returned and to the premises from which they were removed;
  - d) make any inquiries of any person separate or apart from another person that are or may be relevant to the complaint;

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### **Access to dwelling**

- (3) An officer of the Commission shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of an order issued pursuant to subsection 4;

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### **Order of Justice of the Peace**

- (4) Where a Justice of the Peace is satisfied upon an ex parte application by an officer of the Commission that there is reasonable ground for believing that it is necessary to enter any premises for purposes relevant to an inquiry under this Act, the Justice of the Peace may issue an order authorizing an officer of the Commission to enter and view such premises for such purposes, but every such entry and viewing shall be made between sunrise and sunset unless the Justice of the Peace by the order authorizes the officer to make such entry and viewing by night;

**Obstruction**

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(5) No person shall hinder, obstruct, molest or interfere with the Commission or an officer of the Commission in the exercise of a power or the performance of a duty under this Act or withhold from it or him any employment applications, payrolls, records, documents, writings or papers that are or may be relevant to the investigation of a complaint.

<b>Boards of Inquiry</b>	17. (1) Where it appears to the Commission that a complaint will not be settled, the Commission shall make a recommendation to the Minister responsible for human rights as to whether or not a board of inquiry should be appointed, and the Minister responsible for human rights may appoint a board of inquiry consisting of one or more persons to hear and decide the complaint;
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<b>Parties to be notified of membership of a board</b>	<p>(2) Forthwith, subject to subsection 17(1) after the appointment of a board of inquiry, the Minister responsible for human rights shall communicate the names of the members of the board to,</p> <ul style="list-style-type: none"> <li>a) the Commission; and</li> <li>b) the parties referred to in clauses b, c and d of subsection 1 of section 18,</li> </ul> <p>and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act;</p>
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<b>Remuneration of members of a board</b>	(3) The Lieutenant Governor in Council shall determine the remuneration of the Chairman and the members of a board of inquiry appointed under this section.
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<b>Parties to proceeding</b>	<p>18. (1) The parties to a proceeding before a board of inquiry with respect to any complaint are,</p> <ul style="list-style-type: none"> <li>a) the Commission, which shall have the carriage of the complaint;</li> <li>b) the person named in the complaint as the complainant;</li> <li>c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;</li> <li>d) any person named in the complaint and alleged to have contravened this Act; and</li> <li>e) any other person specified by the board upon such notice as the board may determine and after such person has been given an opportunity to be heard against his being added as a party;</li> </ul>
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<b>Copy of complaint annexed to notice</b>	(2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party except the Commission;
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<b>Members of board not to have taken part in investigation, etc.</b>	(3) A member of the board hearing a complaint shall not have taken part in any investigation or consideration of the complaint prior to the hearing and shall not communicate directly or indirectly in relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law;
<b>Recording of evidence</b>	(4) The oral evidence taken before a board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court;
<b>Findings of fact</b>	(5) The findings of fact of the board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the Statutory Powers Procedures Act, 1971;
<b>Jurisdiction of board</b>	(6) Subject to appeal under section 20, the board of inquiry has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.
<b>Powers of board</b>	<p>19. The board, after hearing a complaint,</p> <p>a) shall decide whether or not any party has contravened this Act; and</p> <p>b) may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to rectify any injury caused to any person or make compensation therefore;</p> <p>c) may make such order as to costs as it deems appropriate;</p> <p>d) shall report its decision within sixty days.</p>
<b>Powers of court</b>	<p>20. (1) An appeal under this section may be made on the questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board;</p>



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**Appeal from  
decision  
of board**

(2) Any party to a hearing before a board may appeal from the decision or order of a board to the Supreme Court in accordance with the rules of court;

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**Record to  
be filed  
in court**

(3) Where notice of an appeal is served under this section, the board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made which, together with a transcript of the oral evidence taken before the board if it is not part of the record of the board, shall constitute the record in the appeal;

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**Minister  
responsible to  
be heard**

(4) The Minister responsible for human rights is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

**Consent to  
prosecution**

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21. No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister.
22. Every person who contravenes any of the provisions of this Act or any order made by a board of inquiry under this Act is guilty of an offence and on summary conviction is liable,
- a) if an individual, to a fine of not more than \$1,000; or
  - b) if a corporation, trade union, self governing profession, occupational association, employer's organization or employment agency, to a fine of not more than \$10,000.
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**Style of  
prosecution**

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23. (1) A prosecution for an offence under this Act may be instituted against a corporation, trade union, self governing profession, occupational association, employer's organization or employment agency in the name of the aforementioned;
- (2) Any act or thing done or omitted by an officer, official or agent of a corporation, trade union, self governing profession, occupational association, employer's organization or employment agency shall be deemed to be an act or thing done or omitted by the aforementioned.
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# Part 9

## Injunctive Proceedings

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### Injunction proceedings

24. (1) Where a person has been convicted of a contravention of this Act, the Minister responsible for human rights may apply to a judge of the Supreme Court for an order enjoining such person from continuing such contravention;
- (2) The judge in his discretion may make such order and the order may be entered and enforced in the same manner as any other order of judgement of the Supreme Court.

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**Interpretation**    25. In this Act,

- a) “age” means the age of eighteen years and over;
- b) “commercial unit” means any building or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied as a separate business or professional unit or office;
- c) “commission” means the Ontario Human Rights Commission;
- d) “discrimination” for the purposes of this Act shall be defined as the act of differentiating adversely against any person or class of persons pursuant to the grounds and social areas encompassed by this Act, without a bona fide reason as determined by the Commission;
- e) “employ” means to engage or utilize the services of a person either directly or indirectly through an employer;
- f) “employer” includes a person who contracts with a person for services to be performed by that person or wholly or partly by another person;
- g) “employer’s organization” means an organization of employers formed for the purposes that include the regulation of relations between employers and employees;
- h) “employment agency” includes a person who undertakes with or without compensation to procure employees for employers and a person who undertakes with or without compensation to procure employment for persons;
- i) “housing accommodation” means any place of dwelling except that which is part of a building in which the owner or his family reside and the occupant or occupants are required to share a bathroom or kitchen facility with the owner and his family;
- j) “occupational association” means an organization of employees with similar occupations formed for purposes that include the regulation of relations between employees in that occupation and employers;

k) “pay” means remuneration in any form;

l) “person” in addition to the extended meaning given it by the Interpretation Act, includes employment agency, employer’s organization, self governing profession, occupational association and trade union. Subject to subsections 15(1) and 15(2) of this Act, person for the purposes of this Act includes any individual regardless of age. The Commission will accept complaints laid by or on behalf of individuals who are less than eighteen years old, except on the ground of “age”;

m) “physical disability” for the purposes of this Act means a determinable medical characteristic of an individual including the history of such a medical characteristic which may result from disease, injury, congenital condition of birth or functional disorder, and which is unrelated to the individual’s ability to perform the duties of a particular job or employment, or to live in a particular housing accommodation or to enjoy the benefits of a particular public service or facility;

n) “sexual orientation” means heterosexuality and homosexuality;

o) “self governing profession” means an organization of professionals formed for purposes that include the adjudication of qualifications necessary for the practice of that profession provincially or nationally;

p) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or inter-national trade union and a certified council of trade.



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**List of Briefs received in  
connection with the Review of  
the Ontario Human Rights Code**

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| 1. Reuel S. Amdur,<br>Kitchener, Ontario.     | 17. D.F. Korbucher,<br>Zephyr, Ontario.                          |
| 2. Alan Auerbach,<br>Waterloo, Ontario.       | 18. Mr. and Mrs. Ivan Kovacic,<br>Toronto, Ontario.              |
| 3. G.W. Boyce,<br>London, Ontario.            | 19. J.A. LaPlant,<br>Willowdale, Ontario.                        |
| 4. Gary Cerantola,<br>Port Elgin, Ontario.    | 20. John Lamos,<br>Windsor, Ontario.                             |
| 5. Rosemary Comisso,<br>Windsor, Ontario.     | 21. Denis Levesque,<br>Sudbury, Ontario.                         |
| 6. Mary Dawson,<br>Toronto, Ontario.          | 22. Orval Luffman,<br>Lindsay, Ontario.                          |
| 7. Jake N. Fuchs,<br>Scarborough, Ontario.    | 23. Michael Manowsky,<br>Arnprior, Ontario.                      |
| 8. C. Fuykschot,<br>Gananoque, Ontario.       | 24. Anna McLewin,<br>Ottawa, Ontario.                            |
| 9. Angel Ann Greenland,<br>Toronto, Ontario.  | 25. Linda Pyke,<br>Toronto, Ontario.                             |
| 10. Joseph L. Giroux,<br>Sudbury, Ontario.    | 26. J. Ross Robinson,<br>Windsor, Ontario.                       |
| 11. Thor Hansen,<br>Toronto, Ontario.         | 27. F.J. Rutherford,<br>Waterdown, Ontario.                      |
| 12. Alan Haskvitz,<br>Cornwall, Ontario.      | 28. Gail McMillan,<br>Collingwood, Ontario.                      |
| 13. Raymond F. Hillman,<br>Chatham, Ontario.  | 29. Cross-Cultural<br>Communication Centre,<br>Toronto, Ontario. |
| 14. Karl D. Jaffary,<br>Toronto, Ontario.     | 30. A.K.J. Smith,<br>Aylmer, Ontario.                            |
| 15. Edwin R. Kammin,<br>Toronto, Ontario.     | 31. Roland St. Amard,<br>Hawkesbury, Ontario.                    |
| 16. Armas W. Kallio,<br>Thunder Bay, Ontario. | 32. Jennie Stark,<br>Sudbury, Ontario.                           |

33. Gwendolyn Street,  
Hamilton, Ontario.
34. Robert Thistle,  
Lindsay, Ontario.
35. Verna Vancleaf,  
Baysville, Ontario.
36. Anton Wagner,  
Toronto, Ontario.
37. Citizens' Protection  
Association,  
Huron Chapter #1,  
Dungannon, Ontario.
38. Alwine Wallraff,  
Bowmanville, Ontario.
39. Keith Wilbur,  
Windsor, Ontario.
40. Barbara Wilson,  
Cayuga, Ontario.
41. League for Human Rights  
of B'nai B'rith,  
Toronto, Ontario.
42. D.A. Yonson,  
Ottawa, Ontario.
43. Horst Zimmerman,  
Oshawa, Ontario.
44. S. Samulski,  
Blind River, Ontario.
45. Ottawa-Carleton Women's  
Centre,  
Ottawa, Ontario.
46. Coalition for Gay Rights  
in Ontario,  
Toronto, Ontario.
47. Ethel M. McLellan,  
Executive Coordinator,  
Women's Programs Division,  
Ministry of Labour,  
Toronto, Ontario.
48. National Council of Jewish  
Women of Canada,  
Downsview, Ontario.
49. John Kellerman,  
Toronto, Ontario.
50. John H. Owen,  
Thunder Bay, Ontario.
51. George Reid,  
Toronto, Ontario.
52. Planned Parenthood  
Federation of Canada,  
Toronto, Ontario.
53. Committee on the Status  
of Women Academics,  
Canadian Association of  
University Teachers,  
Guelph, Ontario.
54. Members and staff of  
Scarborough Recreation Club  
for physically disabled,  
Toronto, Ontario.
55. The Canadian Human Rights  
Foundation,  
Montreal, Quebec.
56. Grey Sisters of Immaculate  
Conception,  
Grey Sisters' Motherhouse,  
Pembroke, Ontario.
57. Jacques P. Vallée,  
Ottawa, Ontario.
58. J.J. Hajek,  
Scarborough, Ontario.
59. Pensioners Concerned  
(Canada) Incorporated,  
Toronto, Ontario.
60. Rebecca Liff,  
Ottawa, Ontario.
61. Alfred Adler Institute of Ontario,  
Willowdale, Ontario.
62. Kitchener Waterloo Human  
Rights Caucus,  
Waterloo, Ontario.
63. Multiple Sclerosis Society  
of Canada, North York Unit,  
Willowdale, Ontario.
64. Concerned Residents  
Action Committee,  
Toronto, Ontario.
65. Rev. W.M.H. Thomas,  
Milverton, Ontario.
66. Mary Oralkova,  
Toronto, Ontario.
67. Ian Smith Community Chapter,  
Young Americans for Freedom,  
Toronto, Ontario.
68. Christian Science Committee  
on Publication for Ontario,  
Toronto, Ontario.

69. The Ontario Committee on the Status of Women, Scarborough, Ontario.
70. Karl J. Trabold, Toronto, Ontario.
71. S.I.E.C.C.A.N. Toronto, The First Chapter of the Sex Information and Education Council of Canada, Toronto, Ontario.
72. Ian Hepburn, Vankleek Hill, Ontario.
73. Ontario Council, Campus Alternative, Rexdale, Ontario.
74. The Catholic Women's League, Sudbury, Ontario.
75. William and Flora Denbok, London, Ontario.
76. Guelph and Area Right to Life, Puslinch, Ontario.
77. Stratford and District Right to Life, Stratford, Ontario.
78. Hamilton Right to Life, Hamilton, Ontario.
79. Donald P. Armitage, Brampton, Ontario.
80. Edward Sano, Toronto, Ontario.
81. Margaret Haley, Brantford, Ontario.
82. Anonymous Group Against Legalizing Homosexuality.
83. A Taxpayer, Burlington, Ontario.
84. Sam Wilson, Cayuga, Ontario.
85. Students' Legal Aid Society, Toronto, Ontario.
86. Philip L. Cooper, Ottawa, Ontario.
87. B.O.O.S.T., Blind Organization of Ontario with Self Help Tactics, Toronto, Ontario.
88. Womanpower Employment Centre, London, Ontario.
89. The Women's Advisory Committee, Ministry of Treasury, Economics and Inter-governmental Affairs, Toronto, Ontario.
90. Hospital Special Needs Incorporated, Toronto, Ontario.
91. Right to Life — Woodstock, Woodstock, Ontario.
92. M.H. Swain, London, Ontario.
93. Margaret McCarthy, Thunder Bay, Ontario.
94. Renfrew County Right to Life, Pembroke, Ontario.
95. Ken Reidy, Brucefield, Ontario.
96. Patients' Rights Association, Zephyr, Ontario.
97. C.A. Sharman, Sault Ste. Marie, Ontario.
98. Spina Bidida and Hydrocephalus Association of Ontario, Toronto, Ontario.
99. The McMaster Homophile Association, Hamilton, Ontario.
100. Parkdale Jobs Office, Toronto, Ontario.
101. Naomi Ridout, Toronto, Ontario.
102. Mr. and Mrs. D. Cadotte, Grande Pointe, Ontario.
103. Ontario Separate School Trustees' Association, Toronto, Ontario.
104. Countdown, Toronto, Ontario.
105. The Ontario Federation for the Physically Handicapped, Toronto, Ontario.

106. Working Group on Mental Retardation, Ministry of Community and Social Services, Belleville, Ontario.
107. Women's Crown Employees Office, Ministry of Labour, Toronto, Ontario.
108. Gerald Hannon, Toronto, Ontario.
109. Gertrude Syrotint, Thorold, Ontario.
110. Ontario Advisory Council on the Physically Handicapped, Toronto, Ontario.
111. Elaine Ricker, Callander, Ontario.
112. Gays of Ottawa, Ottawa, Ontario.
113. Association canadienne-française, de l'Ontario, Ottawa, Ontario.
114. Rev. Barry Thomas, Ottawa, Ontario.
115. Rev. C. Bruce Coombe, Wyoming, Ontario.
116. Rev. J.H. Patterson, Lakefield, Ontario.
117. United Handicapped Groups of Ontario, Ottawa, Ontario.
118. Planned Parenthood Ottawa Incorporated, Ottawa, Ontario.
119. Pamela Cluff, Toronto, Ontario.
120. Charles Swift, Sault Ste. Marie, Ontario.
121. Ontario Division, The Canadian Council of the Blind, Ottawa, Ontario.
122. Community Health Department for the Borough of Etobicoke, Etobicoke, Ontario.
123. The Committee on Human Rights of Sudbury and Region, Sudbury, Ontario.
124. Jamaican-Canadian Association, Toronto, Ontario.
125. Immigrant Teachers Alliance, Toronto, Ontario.
126. Algoma Region Anti-Poverty Organization Coalition, Goulais River, Ontario.
127. Rev. Alfred McAlister, Thornhill, Ontario.
128. Corinne Robertshaw, Volunteer Worker for the Children's Aid Society of Ottawa, Ottawa, Ontario.
129. Women's Bureau, Women's Programs Division, Ministry of Labour, Toronto, Ontario.
130. Citizens' Housing Committee, Sault Ste. Marie, Ontario.
131. Rev. George H. Bourguignon, Thunder Bay, Ontario.
132. Paul J. Beneteau, Ottawa, Ontario.
133. The Right to Life Association of Thunder Bay and Area, Thunder Bay, Ontario.
134. West Indian Society of Sudbury, Sudbury, Ontario.
135. Ontario Advisory Council on Multiculturalism, Toronto, Ontario.
136. Bruce Ward, Toronto, Ontario.
137. Ontario Federation of Labour, Toronto, Ontario.
138. Office of the Women Employees' Program Coordinator, Ministry of Housing, Toronto, Ontario.
139. Canadian Society of Muslims, Toronto, Ontario.

140. Committee to defend John Damien, Toronto, Ontario.
141. Sharon McKay, Thunder Bay, Ontario.
142. The Urban Alliance on Race Relations, Toronto, Ontario.
143. South-Port Right to Life Association, Southampton, Ontario.
144. Elizabeth Rosen, Willowdale, Ontario.
145. Reta Fowler, Mississauga, Ontario.
146. D.C. Anger, London, Ontario.
147. Hamilton Chapter, Canadian Cystic Fibrosis Foundation, Hamilton, Ontario.
148. Ted Tonita, Windsor, Ontario.
149. Jack F. Magin, London, Ontario.
150. Thunder Bay Chapter, Canadian Cystic Fibrosis Foundation, Thunder Bay, Ontario.
151. Joan Gamble, Toronto Island, Ontario.
152. Continuing Committee on Race Relations, Toronto, Ontario.
153. Thunder Bay Peace Council, Thunder Bay, Ontario.
154. Committee of Concerned Citizens for Response, Toronto, Ontario.
155. Ontario Status of Women Council, Toronto, Ontario.
156. Elinor Neubauer, Thunder Bay, Ontario.
157. The Native Concerns Committee, Thunder Bay, Ontario.
158. Beryl Forster, Oakville, Ontario.
159. Linda Podwin, Hamilton, Ontario.
160. Times Change Women's Employment Service Incorporated, Toronto, Ontario.
161. Ontario March of Dimes, Toronto, Ontario.
162. Committee of Concerned Women, Sault Ste. Marie, Ontario.
163. Comité consultatif de langue française d'Ottawa, Ottawa, Ontario.
164. Walter Duffield, London, Ontario.
165. Gerald Summers, Downsview, Ontario.
166. The Regional Municipality of Waterloo, Waterloo, Ontario.
167. Lorraine Begley, Lindsay, Ontario.
168. Our Future, (a newspaper by and for the handicapped), Windsor, Ontario.
169. International Students' Centre, University of Windsor, Windsor, Ontario.
170. Edward C. Webster, Ph.D., Emeritus Professor of Psychology, McGill University, Mississauga, Ontario.
171. Association canadienne-français de l'Ontario, Timmins, Timmins, Ontario.
172. Rachel Jones, Val Caron, Ontario.
173. Canadian Jewish Congress, Toronto, Ontario.
174. Rev. Stu Harvey, Keewatin, Ontario.
175. Physically Handicapped Action Group, Kenora, Ontario.



176. Prophetic Witness Committee of the Hamilton conference of the United Church of Canada, Hamilton, Ontario.
178. Unorganized Communities Association of Northwestern Ontario, Kenora, Ontario.
179. Richard Dumeis, Toronto, Ontario.
180. Ontario Division, The Canadian Manufacturers' Association, Toronto, Ontario.
181. R. Cyril Symes, M.P., Ottawa, Ontario.
182. Peter Best, Windsor, Ontario.
183. Lakehead Social Planning Council, Thunder Bay, Ontario.
184. Grand Council Treaty Number Nine, Timmins, Ontario.
185. Housing Education Service, Ontario Public Interest Research Group, Hamilton, Ontario.
186. Union of Injured Workers, Toronto, Ontario.
187. Religious Freedom Organization, Toronto, Ontario.
188. Committee on Veterans' Esprit De Corps, Ottawa, Ontario.
189. Patrick Dawson, Sydney, Nova Scotia.
190. Iain C. Walker, Greely, Ontario.
191. Wilson W. Abernethy, Toronto, Ontario.
192. Rev. Cameron J. Caejns, Ottawa, Ontario.
193. Liz Johnson, Toronto, Ontario.
194. Canadian United Auto Workers' Council, St. Catharines, Ontario.
195. Global Community Centre, Kitchener, Ontario.
196. Ontario Association for the Mentally Retarded, Toronto, Ontario.
197. Cystic Fibrosis Foundation, Waterloo County Chapter, Kitchener, Ontario.
198. Indian Friendship Centre, Sault Ste. Marie, Ontario.
199. Ann Cain, Toronto, Ontario.
200. Robert L. Lenoir, London, Ontario.
201. J.J. Hajek, Scarborough, Ontario.
202. Ministry of Community and Social Services, Cornwall, Ontario.
203. The World of One in Seven, Employment Service for the Physically Handicapped, Kingston, Ontario.
204. Gay Academic Union, Toronto, Ontario.
205. Ability Centre, Welland, Ontario.
206. The International Association of Cancer Victims and Friends Incorporated, Victoria, British Columbia.
207. Ability Centre, Hamilton, Ontario.
208. Alpha-Action League for Physically Handicapped Adults, London, Ontario.
209. Mary Keewatin, Grassy Narrows, Ontario.
210. Harold B. Attin, Toronto, Ontario.
211. London and District Labour Council, London, Ontario.
212. South Asians for Equality, Toronto, Ontario.
213. Womanpower Employment Centre, London, Ontario.

214. Staff of the South-Western Region of the Ontario Human Rights Commission, London, Ontario.
215. Life Skills Program, Fanshawe College, London, Ontario.
216. The London-Middlesex Anti-Poverty League, London, Ontario.
217. N'Amerind, London's Indian Friendship Centre, London, Ontario.
218. London Women's Resource Centre, London, Ontario.
219. London Jewish Community Council, London, Ontario.
220. London-Middlesex Branch of the Canadian Mental Health Association, London, Ontario.
221. Hazel Scott, London, Ontario.
222. Homophile Association of London, London, Ontario.
223. Carson J. Comrie, London, Ontario.
224. H.K. Edward, Orillia, Ontario.
225. The India Canada Society of Hamilton and Region, Dundas, Ontario.
226. Mary Soltes, Stoney Creek, Ontario.
227. John Howard Society of Kitchener-Waterloo, Kitchener, Ontario.
228. The India Canada Society of Waterloo, Waterloo, Ontario.
229. The Catholic Women's League, Kitchener, Kitchener, Ontario.
230. Guelph Gay Equality, Guelph, Ontario.
231. John Howard Society of Ontario, Toronto, Ontario.
232. Alliance for Life, Toronto, Ontario.
233. Canadian Cystic Fibrosis Foundation, Toronto Chapter, Toronto, Ontario.
234. Canadian Association in Support of Native People, Toronto, Ontario.
235. The Canadian Institute for the Blind, Toronto, Ontario.
236. Ontario Chiropractic Association, Toronto, Ontario.
237. Ontario Advisory Council on Senior Citizens, Toronto, Ontario.
238. The Canadian Labour Congress, Ottawa, Ontario.
239. Anita Dahlin, Sault Ste. Marie, Ontario.
240. Lynne Wood and Jean Jones, Ottawa, Ontario.
241. Comité consultatif de langue française d'Ottawa, Le Conseil scolaire d'Ottawa, Ottawa, Ontario.
242. Federation of Students, University of Waterloo, Waterloo, Ontario.
243. Planned Parenthood Organization of Kitchener-Waterloo, Kitchener-Waterloo, Ontario.
244. The Cambridge Committee for the Disabled, Preston, Cambridge, Ontario.
245. Kitchener-Waterloo and District Labour Council, Kitchener, Ontario.
246. Canadian Mental Health Association, Waterloo, Ontario.

247. Planned Parenthood Ontario,  
Kitchener-Waterloo, Ontario.
248. Lakehead Social Planning  
Council Rehabilitation  
Committee,  
Thunder Bay, Ontario.
249. United Citizens' Organization,  
Peterborough, Ontario.
250. Family Counselling Service,  
Peterborough, Ontario.
251. Big Brothers of Peterborough,  
Peterborough, Ontario.
252. Housing Office,  
Trent University,  
Peterborough, Ontario.
253. Citizens' Commission on  
Human Rights (Ontario),  
Toronto, Ontario.
254. The Society of Single Fathers,  
Willowdale, Ontario.
255. Spadina Bloor-Bathurst  
Interchurch Council,  
Toronto, Ontario.
256. Right to Life Association  
of Toronto and Area,  
Toronto, Ontario.
257. Union of Injured Workers,  
(Ontario),  
Toronto, Ontario.
258. Non-Smokers' Association,  
Ottawa, Ontario.
259. Canadian Association of  
University Teachers,  
Ottawa, Ontario.
260. Canadian Cystic Fibrosis  
Foundation,  
Peterborough Chapter,  
Peterborough, Ontario.
261. Canadian Cystic Fibrosis  
Foundation,  
North Bay Chapter,  
North Bay, Ontario.
262. Hazel L. Gontier,  
Toronto, Ontario.
263. Ontario Epilepsy Association,  
Toronto, Ontario.
264. Anonymous
265. Martin Cadogan,  
Toronto, Ontario.
266. Ontario March of Dimes,  
Community Development Office,  
Toronto, Ontario.
267. Toronto Institute of  
Human Relations,  
Toronto, Ontario.
268. Jan Coleman and Louise Szumy,  
Hamilton, Ontario.
269. Simon Chester,  
Toronto, Ontario.
270. Sheila G. Eccles,  
Cavan, Ontario.
271. Barbara Brown,  
Peterborough, Ontario.
272. Community and Neighbourhood  
Planning Division,  
City of Toronto Planning Board.  
Toronto, Ontario.
273. Margaret B. Hamilton,  
Peterborough, Ontario.
274. Loretta Johnson,  
Parry Sound, Ontario.
275. Hamilton Status of Women  
Committee,  
Hamilton, Ontario.
276. Pierre Drouin,  
Ottawa, Ontario.
277. Paul Murphy,  
Stratford, Ontario.
278. Summer Students, Canadian  
Experience,  
Ontario Human Rights  
Commission,  
Toronto, Ontario.
279. Timmins Chapter,  
Canadian Civil Liberties  
Association,  
Timmins, Ontario.
280. Citizen Action Group,  
Hamilton, Ontario.
281. Kitchener Social Planning  
Council,  
Kitchener, Ontario.
282. Bruce Hill,  
Toronto, Ontario.

283. Terry Hammond,  
Arnprior, Ontario.
284. Katherine Catton and  
Mary Tomlinson,  
Islington, Ontario.
285. Canadian Cystic Fibrosis  
Foundation,  
Windsor Chapter,  
Windsor, Ontario.
286. Ontario Advisory Council on  
the Physically Handicapped,  
Toronto, Ontario.
287. The Ontario Association for  
Children with Learning  
Disabilities,  
Etobicoke, Ontario.
288. Social Planning Council  
of Kingston and District,  
Kingston, Ontario.
289. Young Women's Christian  
Association,  
Hamilton, Ontario.
290. Donald Brunette,  
Timmins, Ontario.
291. Pat Brady,  
Sudbury, Ontario.
292. D.L. Michael,  
Oshawa, Ontario.
293. D.M. McGilloway,  
Whitby, Ontario.
294. Gays of Ottawa and Queen's  
Homophile Association,  
Ottawa, Ontario.
295. The United Church of Canada,  
Toronto, Ontario.
296. Sylvia Baum,  
Windsor, Ontario.
297. Donald Power,  
Thunder Bay, Ontario.
298. The Rainbow Club,  
Peterborough, Ontario.
299. The Citadel Theatre,  
Edmonton, Alberta.
300. Murray Rumack, F.C.A.  
F.M.C.,  
Toronto, Ontario.
301. Harold Weber,  
Kitchener, Ontario.
302. Jacqueline Winters,  
Boulter, Ontario.
303. Anonymous,  
Sudbury, Ontario.
304. Jean-Paul Fortier,  
Ottawa, Ontario.
305. Bruce Hill,  
Toronto, Ontario.
306. Sault Ste. Marie Chapter,  
Canadian Cystic Fibrosis  
Foundation,  
Sault Ste. Marie, Ontario.
307. Elaine Stevens,  
McDonald's Corners, Ontario.
308. The Department of Church  
in Society,  
The United Church of Canada,  
Toronto, Ontario.
309. Chown and Chown,  
Barristers and Solicitors,  
Renfrew, Ontario.
310. Ontario Confederation of  
University Faculty  
Associations,  
Toronto, Ontario.
311. Canadian Coordinating Council  
on Deafness,  
Ottawa, Ontario.
312. Children's Aid Society of  
Metropolitan Toronto,  
Toronto, Ontario.
313. Michael Cassidy, MPP,  
Ottawa, Ontario.
314. Derek Watters,  
Peterborough, Ontario.
315. J.P. Fortier,  
Ottawa, Ontario.
316. Peter Best,  
London, Ontario.
317. Family and Children's Services  
of the Niagara Region,  
St. Catharines, Ontario.
318. Michael Cassidy, MPP,  
Ottawa, Ontario.

319. The Ontario Status of Women's Council,  
Toronto, Ontario.
320. Jamie Benidickson,  
Peterborough, Ontario.
321. Margueritta R. Kluensch,  
Kingston, Ontario.
322. D.L. Michael,  
Oshawa, Ontario.
323. Jacqueline Stuart,  
Kitchener, Ontario.
324. Stanley Jones,  
Toronto, Ontario.
325. Alderman Dan Heap,  
Toronto, Ontario.
326. Cynthia G. Witwicki,  
Victoria, British Columbia.
327. Canadian Civil Liberties  
Association,  
Toronto, Ontario.
328. Family and Children's Services  
of the Niagara Region,  
St. Catharines, Ontario.
329. Queen's University  
Faculty Association,  
Kingston, Ontario.
330. E.A. Loftus
331. Trent Homophile Association,  
Peterborough, Ontario.
332. Harry Worton, MPP,  
Toronto, Ontario.
333. Kim Harris,  
Toronto, Ontario.
334. Naison Mwande,  
Toronto, Ontario.











